

FRESNO COUNTY SUPERIOR COURT

FILING INSTRUCTIONS

(January 1, 2012 Revision)

Deleted Pages

Cover page
i through vi
xi through xiv
2-1 through 2-2
2-5 through 2-26
3-5 through 3-14
7-1 through 7-2
7-5 through 7-8
7-11 through 7-18
I-7 through I-8

Replace With Pages

Cover page
i through vi
xi through xiv
2-1 through 2-2
2-5 through 2-26
3-5 through 3-14
7-1 through 7-2
7-5 through 7-8
7-11 through 7-18
I-7 through I-8

**LOCAL RULES FOR THE
SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO**



**January 1, 2012
Publication**

Price: \$12.50

FRESNO COUNTY SUPERIOR COURT

TABLE OF CONTENTS AND LIST OF EFFECTIVE RULES

CHAPTER 1. ADMINISTRATIVE RULES

Rule 1.1	General	1-1
1.1.1	Citation of Rule (<i>Eff. 1/1/08, formerly Rule 1.1</i>)	1-1
1.1.2	Effective Date of Rules (<i>Repealed, Eff. 1/1/09, formerly Rule 1.2</i>)	1-1
1.1.3	Construction, Scope and Effect of Rules (<i>Eff. 1/1/06, formerly Rule 1.3</i>)	1-1
1.1.4	Definitions (<i>Eff. 7/1/11, formerly Rule 1.4</i>)	1-1
1.1.5	Amendment, Addition or Repeal of Rules (<i>Eff. 1/1/06, formerly Rule 1.5</i>)	1-3
1.1.6	Failure to Comply with Rules (<i>Eff. 1/1/06, formerly Rule 1.6</i>)	1-3
1.1.7	Court Security (<i>Eff. 1/1/06, formerly Rule 1.7</i>)	1-4
1.1.8	Court Attire (<i>Eff. 1/1/06, formerly Rule 1.8</i>)	1-4
1.1.9	Appearance for Another Attorney (<i>Eff. 1/1/06, formerly Rule 1.9</i>)	1-4
1.1.10	Filing and Format of Documents (<i>Eff. 1/1/06, formerly Rule 1.10</i>)	1-4
1.1.11	Forms of Payment (<i>Eff. 7/1/11, formerly Rule 1.11</i>)	1-4
1.1.12	Custody of Court Files and Signed Orders (<i>Eff. 1/1/06, formerly Rule 1.12</i>)	1-5
1.1.13	Attorney's Duty to Comply with Calendar (<i>Eff. 1/1/06, formerly Rule 1.13</i>)	1-5
1.1.14	Filing and Acceptance of Papers (<i>Eff. 7/1/10</i>)	1-5
1.1.15	Filing Notices of Appeal (<i>Eff. 7/1/10, New</i>)	1-6
1.1.16	Returned Checks (<i>Eff. 7/1/11</i>)	1-6
Rule 1.2	Court Organization	1-6
1.2.1	Election, Term and Duties of Presiding Judge (<i>Eff. 1/1/06, formerly Rule 2.1</i>)	1-6
1.2.2	Assistant Presiding Judge (<i>Eff. 1/1/06, formerly Rule 2.2</i>)	1-7
1.2.3	Acting Presiding Judge (<i>Eff. 1/1/06, formerly Rule 2.3</i>)	1-7
1.2.4	Regular and Special Meetings (<i>Eff. 1/1/06, formerly Rule 2.4</i>)	1-7
1.2.5	Election, Term and Duties of Executive Committee (<i>Eff. 7/1/11, formerly Rule 2.5</i>)	1-9
1.2.6	Committee Assignments (<i>Eff. 1/1/06, formerly Rule 2.6</i>)	1-11
1.2.7	Court Executive Officer (<i>Eff. 7/1/07, formerly Rule 2.7</i>)	1-11
1.2.8	Court Commissioners (<i>Eff. 1/1/06, formerly Rule 2.8</i>)	1-12
1.2.9	Definition of Judicial Vacation Day (<i>Eff. 1/1/09, New</i>)	1-12

FRESNO COUNTY SUPERIOR COURT

CHAPTER 2. CIVIL RULES

Rule 2.1	Administration of Civil Cases	2-1
2.1.1	Applicability (<i>Eff. 1/1/06, formerly Rule 3.1</i>).....	2-1
2.1.2	Case Disposition Time Standards (<i>Eff. 1/1/12, formerly Rule 3.2</i>).....	2-1
2.1.3	Tracking Cases (<i>Eff. 1/1/06, formerly Rule 3.3</i>).....	2-1
2.1.4	Notice of Case Management Conference (<i>Eff. 1/1/06, formerly Rule 3.4</i>).....	2-1
2.1.5	Service and Filing of Proof of Service (<i>Eff. 1/1/06, formerly Rule 3.5</i>).....	2-2
2.1.6	Extensions of Time by the Court (<i>Eff. 1/1/06, formerly Rule 3.6</i>).....	2-2
2.1.7	Case Management Plans (<i>Eff. 1/1/06, formerly Rule 3.7</i>)	2-2
2.1.8	Stipulation for Trial Setting in Lieu of Case Management Conference (<i>Eff. 7/1/10, formerly Rule 3.8</i>).....	2-3
2.1.9	Case Management Conference (<i>Eff. 1/1/06, formerly Rule 3.9</i>).....	2-3
2.1.10	Trial Date and Conflicts (<i>Eff. 1/1/06, formerly Rule 3.10</i>)	2-4
2.1.11	Complex Litigation (<i>Eff. 1/1/06, formerly Rule 3.11</i>).....	2-5
2.1.12	Continuance or Modification (<i>Eff. 1/1/06, formerly Rule 3.12</i>)	2-6
2.1.13	Settlement and Conditional Settlement (<i>Eff. 7/1/07, formerly Rule 3.13</i>).....	2-6
2.1.14	Default Judgment (<i>Eff. 1/1/12, formerly Rule 3.14</i>).....	2-6
2.1.15	Signatures on Orders (<i>Eff. 1/1/06, formerly Rule 3.15</i>).....	2-7
2.1.16	Designation of Counsel (<i>Eff. 1/1/06, formerly Rule 3.16</i>).....	2-7
Rule 2.2	Civil Law and Motion	2-7
2.2.1	Setting Law and Motion Hearing (<i>Eff. 1/1/06, formerly Rule 4.1</i>)...2-7	
2.2.2	Taking Law and Motion Hearing Off Calendar (<i>Eff. 1/1/06 formerly Rule 4.2</i>).....	2-7
2.2.3	Continuing a Law and Motion Hearing (<i>Eff. 1/1/06, formerly Rule 4.3</i>).....	2-8
2.2.4	Additional Copies (<i>Eff. 1/1/06, formerly Rule 4.4</i>).....	2-8
2.2.5	Telephonic Appearances (<i>Eff. 7/1/08, formerly Rule 4.5</i>).....	2-8
2.2.6	Tentative Rulings (<i>Eff. 1/1/10, formerly Rule 4.6</i>).....	2-9
Rule 2.3	Early Mandatory Mediation Pilot Program (<i>Repealed, Eff. 1/1/07</i>)	
Rule 2.4	Alternative Dispute Resolution (ADR).....	2-9
2.4.1	ADR Information (<i>Eff. 1/1/06, formerly Rule 7.1</i>)	2-9
2.4.2	Judicial Arbitration (<i>Eff. 7/1/07, formerly Rule 7.2</i>)	2-9
2.4.3	Mediation (<i>Eff. 1/1/06, formerly Rule 7.3</i>).....	2-9
Rule 2.5	Mandatory Settlement Conference.....	2-10
2.5.1	Mandatory Settlement Conference (<i>Eff. 1/1/06, formerly Rule 8.1</i>).....	2-10
2.5.2	Meet and Confer Prior to Settlement Conference (<i>Eff. 1/1/06, formerly Rule 8.2</i>).....	2-10

Table of Contents and List of Effective Rules

FRESNO COUNTY SUPERIOR COURT

2.5.3	Further Settlement Conference on Day of Trial (<i>Eff. 1/1/06, formerly Rule 8.3</i>).....	2-11
2.5.4	Conflicts in Scheduling and Special Requests (<i>Eff. 1/1/06, formerly Rule 8.4</i>).....	2-11
2.5.5	Attendance (<i>Eff. 1/1/06, formerly Rule 8.5</i>)	2-11
2.5.6	Settlement Conference Statement (<i>Eff. 7/1/07, formerly Rule 8.6</i>)	2-13
2.5.7	Further Settlement Conferences Before Trial (<i>Eff. 1/1/06, formerly Rule 8.7</i>)	2-13
2.5.8	Mandatory Settlement Conferences at Trial Readiness Hearing (<i>Eff. 1/1/09, formerly Rule 8.8</i>).....	2-14
Rule 2.6	Trial Readiness	2-14
2.6.1	Meet and Confer (<i>Eff. 7/1/11, formerly Rule 9.1</i>).....	2-14
2.6.2	Trial Readiness Hearing (<i>Eff. 7/1/11, formerly Rule 9.2</i>)	2-14
Rule 2.7	Ex Parte Applications	2-15
2.7.1	Format and Filing (<i>Eff. 7/1/08, formerly Rule 10</i>).....	2-15
2.7.2	Cases in Which Hearings Not Required (<i>Eff. 7/1/08, New</i>)	2-15
Rule 2.8	Miscellaneous Civil Rules	2-16
2.8.1	Civil Jury Fees (<i>Eff. 1/1/06, formerly Rule 11.1</i>)	2-16
2.8.2	Use of Interpreters (<i>Eff. 1/1/06, formerly Rule 11.2</i>).....	2-16
2.8.3	Attorney's Fees (<i>Eff. 1/1/06, formerly Rule 11.3</i>).....	2-16
2.8.4	Compromise of Claims of Minors or Incompetent Persons (<i>Eff. 7/1/07, formerly Rule 11.4</i>).....	2-16
2.8.5	Court Reporter Fees (<i>Eff. 1/1/08, formerly Rule 11.5</i>).....	2-17
2.8.6	Filing Limited Civil Cases in Proper Court Division (<i>Eff. 1/1/07, formerly Rule 11.6</i>).....	2-17
2.8.7	Firearms Forfeiture Default (<i>Eff. 1/1/08, New</i>).....	2-18
2.8.8	Petitions for Approval of Transfers of Structured Settlements (<i>Eff. 7/1/10, New</i>).....	2-18
Rule 2.9	Unlawful Detainer Cases	2-19
2.9.1	Case Disposition Time (<i>Eff. 1/1/06, formerly Rule 12.1</i>).....	2-19
2.9.2	Notice of Dismissal Hearing (<i>Eff. 7/1/10, formerly Rule 12.2</i>).....	2-19
2.9.3	Service and Filing of Proof of Service (<i>Eff. 1/1/06, formerly Rule 12.3</i>).....	2-19
2.9.4	Request to Set Case for Trial (<i>Eff. 7/1/10, formerly Rule 12.4</i>)	2-19
2.9.5	Dismissal Hearing (<i>Eff. 7/1/10, formerly Rule 12.5</i>).....	2-20
2.9.6	Assignment of Case for Trial (<i>Eff. 7/1/10, formerly Rule 12.6</i>)	2-20
2.9.7	Hearing to Prove Damages (<i>Eff. 1/1/06, formerly Rule 12.7</i>)	2-20
2.9.8	Undertaking for Immediate Possession of Premises (<i>Eff. 1/1/06, formerly Rule 12.8</i>).....	2-20
2.9.9	Judgment (<i>Eff. 1/1/06, formerly Rule 12.9</i>).....	2-21
2.9.10	Notice of Restricted Access (<i>Eff. 1/1/06, formerly Rule 12.10</i>).....	2-21

FRESNO COUNTY SUPERIOR COURT

Rule 2.10	Small Claims Cases	2-21
2.10.1	Case Disposition Time (<i>Eff. 1/1/06, formerly Rule 13.1</i>).....	2-21
2.10.2	Unserved Defendants (<i>Eff. 1/1/06, formerly Rule 13.2</i>).....	2-21
2.10.3	Untimely Small Claims Appeals (<i>Eff. 1/1/06, formerly Rule 13.3</i>)..	2-21
2.10.4	Filing Small Claims Cases in Proper Court Division (<i>Eff. 1/1/06, formerly Rule 13.4</i>).....	2-22
Rule 2.11	Cases Involving the California Environmental Quality Act (CEQA) (<i>Eff. 7/1/11, formerly Rule 2.2.7</i>)	2-22
2.11.1	Assignment of CEQA Cases (<i>Eff. 7/1/11, New</i>).....	2-22
2.11.2	Preparation of Administrative Record (<i>Eff. 7/1/11, New</i>)	2-23
2.11.3	Format of the Administrative Record (<i>Eff. 7/1/11, New</i>)	2-24
2.11.4	Disputes Regarding the Contents of the Administrative Record (<i>Eff. 7/1/11, New</i>)	2-25
2.11.5	Briefing Schedule and Length of Memoranda (<i>Eff. 7/1/11, New</i>)...	2-25
2.11.6	Settlement Meeting (<i>Eff. 7/1/11, New</i>).....	2-26
2.11.7	Statement of Issues (<i>Eff. 7/1/11, New</i>).....	2-26
2.11.8	Trial Notebook (<i>Eff. 7/1/11, New</i>)	2-26

CHAPTER 3. CRIMINAL RULES

Rule 3.1	General Criminal Rules	3-1
3.1.1	Request for Warrants – District Attorney’s Obligation to Include Warrant File Numbers on Complaints and Information (<i>Eff. 1/1/10, formerly Rule 14.1</i>).....	3-1
3.1.2	Release on Own Recognizance (<i>Eff. 1/1/06, formerly Rule 14.2</i>)	3-1
3.1.3	Motions Made for Release on Own Recognizance or Bail Modification (<i>Eff. 1/1/06, formerly Rule 14.3</i>)	3-1
3.1.4	Defendant’s Clothing (<i>Eff. 1/1/06, formerly Rule 14.4</i>)	3-2
3.1.5	Continuances (<i>Eff. 7/1/07, formerly Rule 14.6</i>).....	3-2
3.1.6	Habeas Corpus Writs (<i>Eff. 7/1/07, formerly Rule 14.7</i>).....	3-2
3.1.7	Writs of Mandate and Prohibition (<i>Eff. 1/1/10, formerly Rule 14.8</i>).....	3-3
3.1.8	Attorney, Expert and Investigation (<i>Eff. 7/1/07, formerly Rule 14.9</i>)	3-3
3.1.9	Retention of Exhibits Prior to Final Determination of Action or Proceeding (<i>Eff. 1/1/09, New</i>)	3-4
3.1.10	Sound and/or Video Recordings to be Offered as Evidence In Criminal Cases (<i>Eff. 7/1/10, New</i>)	3-4
3.1.11	Penal Code Section 1203.4 or 1203.4a (<i>Eff. 7/1/11, New</i>).....	3-4
Rule 3.2	Misdemeanor Case Rules	3-4
3.2.1	Misdemeanor Filings (<i>Eff. 1/1/06, formerly Rule 15.1</i>).....	3-4
3.2.2	Case Assignment (<i>Eff. 1/1/10, New</i>).....	3-5
	Table of Contents and List of Effective Rules	

FRESNO COUNTY SUPERIOR COURT

3.2.3	Continuances (<i>Eff. 1/1/10, formerly Rule 15.2</i>).....	3-5
3.2.4	Misdemeanor Pretrial Hearing (<i>Eff. 1/1/10, formerly Rule 15.3</i>)....	3-5
3.2.5	Misdemeanor Trial Calendar (<i>Eff. 1/1/10, formerly Rule 15.4</i>).....	3-5
Rule 3.3	Motions and Hearings in Misdemeanor Cases.....	3-5
3.3.1	Assignment of Motions (<i>Eff. 1/1/06, formerly Rule 16.1</i>)	3-5
3.3.2	Filing of Motions (<i>Eff. 1/1/12, formerly Rule 16.2</i>).....	3-6
3.3.3	Motions to Suppress Evidence (<i>Eff. 1/1/06, formerly Rule 16.3</i>) ...	3-6
3.3.4	Renewal of Motions (<i>Eff. 1/1/06, formerly Rule 16.4</i>)	3-6
Rule 3.4	Felony Case Rules.....	3-7
3.4.1	Felony Filings (<i>Eff. 1/1/06, formerly Rule 17.1</i>)	3-7
3.4.2	Designated Department (<i>Eff. 7/1/11</i>).....	3-7
3.4.3	Schedule of Hearings (<i>Eff. 7/1/07, New</i>)	3-7
3.4.4	Certification (<i>Eff. 7/1/07, formerly Rule 17.2</i>).....	3-7
3.4.5	Preliminary Examinations (<i>Eff. 7/1/07, formerly Rule 17.3</i>)	3-7
3.4.6	Trial Setting (<i>Eff. 7/1/07, formerly Rule 17.5</i>)	3-7
3.4.7	Settlement Conference (<i>Eff. 7/1/07, New</i>)	3-8
Rule 3.5	Motions and Hearings in Felony Cases	3-8
3.5.1	Motions in General (<i>Eff. 1/1/12, formerly Rule 18.1</i>).....	3-8
3.5.2	Motions to Suppress Evidence (<i>Eff. 7/1/08, formerly Rule 18.2</i>) ...	3-10
Rule 3.6	Traffic Infraction Cases	3-12
3.6.1	Trial of Traffic Infractions (<i>Eff. 1/1/06, formerly Rule 19.1</i>)	3-12
3.6.2	Trial by Declaration (<i>Eff. 7/1/07, formerly Rule 19.2</i>).....	3-13
3.6.3	Traffic Infraction Appeals (<i>Eff. 1/1/09, formerly Rule 19.3</i>).....	3-13

CHAPTER 4. MISCELLANEOUS RULES

Rule 4.1	Rules of General Application.....	4-1
4.1.1	Jury Instructions and Verdict Forms (<i>Eff. 7/1/07, formerly Rule 20.1</i>).....	4-1
4.1.2	Sound Recordings to be Offered as Evidence at Trial (<i>Eff. 1/1/06, formerly Rule 20.2</i>).....	4-1
4.1.3	Confidentiality of Jurors' Declarations (<i>Eff. 1/1/06, formerly Rule 20.3</i>).....	4-2
4.1.4	Requests to Conduct Media Coverage (<i>Eff. 7/1/07, formerly Rule 20.4</i>).....	4-2
4.1.5	Dangerous, Large or Bulky Exhibits (<i>Eff. 1/1/06, formerly Rule 20.5</i>).....	4-2
4.1.6	Facsimile Machine (Fax) Filing and Notification (<i>Eff. 7/1/11, formerly Rule 20.6</i>).....	4-5
4.1.7	Trial Readiness Hearing (<i>Repealed, Eff. 7/1/07, formerly Rule 20.7</i>).....	4-6

FRESNO COUNTY SUPERIOR COURT

4.1.8	Identification of Document Preparers (<i>Eff. 1/1/06, formerly Rule 20.8</i>).....	4-6
4.1.9	Electronic Mail Communication with the Court (<i>Eff. 1/1/06, formerly Rule 20.9</i>).....	4-7
4.1.10	Protocol for Communication Between Courts Regarding Domestic Violence Orders (<i>Eff. 1/1/10, New</i>).....	4-7
Rule 4.2	Appeals to the Appellate Division	4-9
4.2.1	Three Judge Panel (<i>Eff. 1/1/06, formerly Rule 21.1</i>)	4-9
4.2.2	Filing of Appeal, Briefing and Hearing Dates (<i>Eff. 1/1/06, formerly Rule 21.2</i>).....	4-9
4.2.3	Record on Appeal (<i>Eff. 1/1/11</i>)	4-9
4.2.4	Briefing Procedure (<i>Eff. 1/1/09, formerly Rule 21.3</i>).....	4-9

CHAPTER 5. FAMILY LAW RULES

Rule 5.1	General Provisions	5-1
5.1.1	Result of Failure to Comply (<i>Eff. 1/1/06, formerly Rule 30.1</i>)	5-1
5.1.2	Abbreviations (<i>Eff. 1/1/06, New</i>).....	5-1
Rule 5.2	Moving and Responsive Pleadings and Other Non-Trial Hearings	5-1
5.2.1	Setting the Date and Time (<i>Eff. 7/1/07, formerly Rule 31.2</i>).....	5-1
5.2.2	Temporary Orders and Ex Parte Procedures (<i>Eff. 7/1/11, formerly Rule 31.3</i>).....	5-2
5.2.3	Orders Shortening and Extending Time (<i>Eff. 1/1/06, formerly Rule 31.4</i>).....	5-4
5.2.4	One Setting Per Calendar Call (<i>Eff. 1/1/06, formerly Rule 31.5</i>)....	5-4
5.2.5	Moving and Responsive Pleadings (<i>Eff. 1/1/06, formerly Rule 31.6</i>)	5-5
5.2.6	Pre-Hearing Settlement Efforts (<i>Eff. 1/1/06, formerly Rule 31.7</i>)...5-5	
5.2.7	Matters Off Calendar (<i>Eff. 7/1/07, formerly Rule 31.8</i>)	5-5
5.2.8	Continuances (<i>Eff. 7/1/07, formerly Rule 31.9</i>).....	5-6
5.2.9	Presence of Parties and Attorneys (<i>Eff. 1/1/06, formerly Rule 31.10</i>)	5-6
5.2.10	Conduct of Hearings (<i>Eff. 7/1/07, formerly Rule 31.11</i>).....	5-7
5.2.11	OSC Contempt (<i>Eff. 1/1/06, formerly Rule 31.12</i>)	5-7
5.2.12	County Prisoners (<i>Eff. 1/1/06, formerly Rule 31.13</i>).....	5-8
5.2.13	Attorneys' Fees and Costs (<i>Eff. 1/1/06, formerly Rule 31.14</i>).....	5-8
5.2.14	Photocopies In Court File (<i>Eff. 1/1/06, formerly Rule 31.15</i>)	5-8
5.2.15	Judicial Officer's Signature (<i>Eff. 1/1/06, formerly Rule 31.16</i>)	5-8
5.2.16	Preparation of Order After Hearing (<i>Eff. 1/1/06, formerly Rule 31.17</i>)	5-9
5.2.17	Signatures on Stipulations (<i>Eff. 7/1/07, formerly Rule 31.18</i>).....	5-9

FRESNO COUNTY SUPERIOR COURT

	(Eff. 1/1/06, formerly Rule 53.1).....	6-11
6.4.2	Ex Parte Applications/Orders (Eff. 1/1/06, formerly Rule 53.2).....	6-11
6.4.3	Ex Parte Application to Calendar Hearing (Eff. 1/1/06, formerly Rule 53.3).....	6-11
6.4.4	Routine Ex Parte Applications (Eff. 1/1/07, formerly Rule 53.4)	6-13
6.4.5	Non-Routine Applications (Eff. 1/1/07, formerly Rule 53.5)	6-14
6.4.6	Noticed Motions (Eff. 1/1/06, formerly Rule 53.6).....	6-15
6.4.7	Motion for More Restrictive Placement (Eff. 7/1/07, formerly Rule 53.7).....	6-15
6.4.8	Motion for Less Restrictive Placement (Eff. 7/1/07, formerly Rule 53.8).....	6-15
6.4.9	Petitions for Modification (Consent Calendar Procedure) (Eff. 7/1/07, formerly Rule 53.9).....	6-16
6.4.10	Visitation (Eff. 1/1/07, formerly Rule 53.10)	6-16
6.4.11	Travel Authorization (Eff. 1/1/07, formerly Rule 53.11).....	6-17
6.4.12	Application to Commence Proceeding (Eff. 1/1/07, formerly Rule 53.12).....	6-17
6.4.13	Request for Rehearing (Eff. 1/1/07, formerly Rule 53.13).....	6-18
Rule 6.5	Coordination of Court Proceedings	6-18
6.5.1	Court Management of Child Abuse or Neglect Cases (Eff. 1/1/07, formerly Rule 54.1).....	6-18
6.5.2	Report Pursuant to Penal Code § 11166 (Eff. 1/1/07, formerly Rule 54.2).....	6-18
6.5.3	Child Abuse or Neglect Investigation (Eff. 1/1/07, formerly Rule 54.3).....	6-18
6.5.4	Suspension of Family Law and Probate Proceedings (Eff. 1/1/07, formerly Rule 54.4).....	6-19
6.5.5	Informal Supervision Agreement (Eff. 1/1/07, formerly Rule 54.5)	6-19
6.5.6	Coordination of Cases (Eff. 1/1/07, formerly Rule 54.6)	6-19
6.5.7	Petition for Dismissal (Eff. 1/1/07, formerly Rule 54.7)	6-19
6.5.8	Juvenile Court Custodial Order (Eff. 1/1/07, formerly Rule 54.8)...	6-20
6.5.9	Maintenance of Orders in Court Files (Eff. 1/1/06, formerly Rule 54.9).....	6-20
Rule 6.6	Medical Issues	6-20
6.6.1	Health Assessment (Eff. 1/1/07, formerly Rule 55.1).....	6-20
6.6.2	Authorization for Use of Psychotropic Drugs in Juvenile Dependency Proceedings (Eff. 1/1/10, formerly Rule 55.2).....	6-21
6.6.3	Six Month Renewal for all Psychotropic Drug Orders (Eff. 1/1/07, formerly Rule 55.3).....	6-23
Rule 6.7	Confidentiality.....	6-23
6.7.1	Release of Information Relating to Juveniles (Eff. 7/1/07, formerly Rule 56.1).....	6-23

FRESNO COUNTY SUPERIOR COURT

6.7.2	Release of Records to Parties and Their Attorneys (<i>Eff. 1/1/06, formerly Rule 56.2</i>).....	6-30
6.7.3	Access to Courtroom by Non-Parties (<i>Eff. 1/1/06, formerly Rule 56.3</i>).....	6-30

CHAPTER 7. PROBATE RULES

Rule 7.1	Pleadings	7-1
7.1.1	Form of Documents Presented for Filing in Probate Matters (<i>Eff. 1/1/06, formerly Rule 70.1</i>).....	7-1
7.1.2	Filing Fees for Trust Matters (<i>Eff. 1/1/06, formerly Rule 70.2</i>).....	7-1
Rule 7.2	Probate Appearances	7-2
7.2.1	Appearance Requirements (<i>Eff. 7/1/08, formerly Rule 71.1</i>)	7-2
7.2.2	Telephonic Appearances (<i>Eff. 7/1/08, formerly Rule 71.2</i>)	7-2
Rule 7.3	Pre-Approved Matters/Probate Examiners (<i>Eff. 1/1/12, formerly Rule 72</i>)	7-2
Rule 7.4	Continuances	7-3
7.4.1	Regularly Calendared Matters (<i>Eff. 1/1/06, formerly Rule 73.1</i>)	7-3
7.4.2	Objections (<i>Eff. 1/1/06, formerly Rule 73.2</i>).....	7-3
7.4.3	Limitations on Continuances (<i>Eff. 1/1/06, formerly Rule 73.3</i>).....	7-3
7.4.4	Notification of Parties (<i>Eff. 1/1/06, formerly Rule 73.4</i>).....	7-3
7.4.5	Resetting a Matter Taken Off Calendar (<i>Eff. 1/1/06, formerly Rule 73.5</i>).....	7-3
Rule 7.5	Status Hearings and Status Reports (<i>Eff. 1/1/08, formerly Rule 74</i>)	7-4
Rule 7.6	Orders	7-4
7.6.1	Form of Orders (<i>Eff. 1/1/06, formerly Rule 75.1</i>)	7-4
7.6.2	Pre-Approved Orders (<i>Eff. 1/1/06, formerly Rule 75.2</i>).....	7-5
7.6.3	Orders Correcting Clerical Errors (<i>Eff. 1/1/06, formerly Rule 75.3</i>)	7-5
Rule 7.7	Ex Parte Proceedings (<i>Eff. 1/1/08, formerly Rule 76</i>)	7-5
Rule 7.8	Blocked Accounts	7-6
7.8.1	General Provisions (<i>Eff. 1/1/12, formerly Rule 77.1</i>)	7-6
7.8.2	Accounting Requirements for Blocked Accounts (<i>Eff. 1/1/06, formerly Rule 77.2</i>).....	7-7
7.8.3	Withdrawals from Minor's Blocked Account During Minority (<i>Eff. 1/1/12, formerly Rule 77.3</i>).....	7-7

FRESNO COUNTY SUPERIOR COURT

Rule 7.9	Publication (<i>Eff. 1/1/09, formerly Rule 78</i>)	7-8
Rule 7.10	Letters for Multiple Representatives (<i>Eff. 1/1/06, formerly Rule 79</i>)	7-8
7.10.1	Duties and Liabilities (<i>Eff. 1/1/06</i>)	7-8
Rule 7.11	Inventory and Appraisal	7-9
7.11.1	Definitions (<i>Eff. 1/1/06, formerly Rule 80.1</i>)	7-9
7.11.2	Inventory Description of Real Property (<i>Eff. 1/1/06, formerly Rule 80.2</i>)	7-9
Rule 7.12	Petitions for Distribution	7-9
7.12.1	Listing of Property to be Distributed (<i>Eff. 1/1/06, formerly Rule 81.1</i>)	7-9
7.12.2	Characterization of Property to be Distributed (<i>Eff. 1/1/06, formerly Rule 81.2</i>)	7-9
7.12.3	Distribution of Personal Effects (<i>Eff. 1/1/06, formerly Rule 81.3</i>)	7-10
7.12.4	Distribution of Real Property (<i>Eff. 1/1/08, New</i>)	7-10
7.12.5	Distribution of Inter Vivos Trusts (<i>Eff. 1/1/08, formerly Rule 81.4</i>)	7-10
Rule 7.13	Waiver of Accounting in Probate Estates (<i>Eff. 1/1/06, formerly Rule 82</i>)	7-10
Rule 7.14	Disclaimers and Assignments in Probate Estates (<i>Eff. 1/1/06, Formerly Rule 83</i>)	7-10
Rule 7.15	Conservatorships and Guardianships	7-10
7.15.1	Investigation Costs (<i>Eff. 7/1/11, formerly Rule 84.1</i>)	7-10
7.15.2	Independent Powers (<i>Eff. 1/1/06, formerly Rule 84.2</i>)	7-11
7.15.3	Temporary Conservatorships and Guardianships (<i>Eff. 1/1/12, formerly Rule 84.3</i>)	7-11
7.15.4	Receipt of Public Benefits (<i>Eff. 1/1/06, formerly Rule 84.4</i>)	7-11
7.15.5	Guardianship of the Estate (<i>Eff. 1/1/12, formerly Rule 84.6</i>)	7-12
7.15.6	Guardianship Filing Requirements (<i>Eff. 1/1/12, formerly Rule 84.7</i>)	7-12
7.15.7	Effect of Other Pending Proceedings Regarding the Child (<i>Eff. 1/1/12, formerly Rule 84.8</i>)	7-12
7.15.8	Conservatorship Requirements (<i>Eff. 1/1/12, formerly Rule 84.9</i>)	7-12
7.15.9	Compensation of Court-Appointed Attorney (<i>Eff. 1/1/12, formerly Rule 84.10</i>)	7-13
Rule 7.16	Attorney's Fees and Commissions in Guardianship and Conservatorship (<i>Eff. 1/1/12, formerly Rule 85</i>)	7-14

FRESNO COUNTY SUPERIOR COURT

Rule 7.17	Reimbursement of Attorney's, Conservator's, or Guardian's Costs Advanced (<i>Eff. 1/1/08, formerly Rule 86</i>)	7-15
Rule 7.18	Extraordinary Fees In Decedent's Estates (<i>Eff. 1/1/08, formerly Rule 87</i>)	7-16
Rule 7.19	Trusts, Special Needs Trusts and Substituted Judgments (<i>Eff. 1/1/08, formerly Rules 88.1 and 88.2</i>)	7-16
Rule 7.20	Court Confirmed Sales of Real Property (<i>Eff. 7/1/11, New</i>)	7-17
Appendix A: Civil		
A1	Attorneys' Fees Upon Default Judgment (<i>Eff. 7/1/04</i>)	A-1
Appendix B: Criminal		
	Reserved	A-2
Appendix C: Family Law		
C1	List Of Abbreviations (<i>Eff. 1/1/06</i>)	A-3
Appendix D: Juvenile		
D1	Table of Abbreviations (<i>Eff. 1/1/07</i>)	A-4
D2	Court Designated Child Advocate Oath (<i>Eff. 1/1/96</i>)	A-5
D3	Stipulation for Disclosure of Juvenile Court Records (<i>Eff. 7/1/00</i>)	A-6
Appendix E: Probate		
E1	Agreement to Submit Dispute to a Temporary Judge and Order Thereon (<i>Eff. 7/1/99</i>)	A-8
E2	Attorney Application for Appointment to Probate Reference Panel (<i>Eff. 7/1/98</i>)	A-10
E3	Sample Brief (<i>Eff. 7/1/98</i>)	A-12
E4	Additional Useful Information (<i>Eff. 7/1/11</i>)	A-13
Index		I-1

FRESNO COUNTY SUPERIOR COURT

CHAPTER 2. CIVIL RULES

RULE 2.1 ADMINISTRATION OF CIVIL CASES

2.1.1 Applicability

The provisions of Rule 2.1 shall apply to all general civil cases and complex litigation, as defined in Rule 1.1.4, unless otherwise specified in these rules (Rule 2.1.1 renumbered effective January 1, 2006; adopted as Rule 3.1 effective May 14, 2001)

2.1.2 Case Disposition Time Standards

A. The court adopts the case disposition time standards set forth in §§ 2.1 and 2.3 of the California Standards of Judicial Administration.

B. The court shall endeavor to dispose of all general civil cases as follows: 90% within twelve (12) months after filing, 98% within eighteen (18) months after filing, 100% within twenty-four (24) months after filing. (Effective January 1, 2012; Rule 2.1.1 renumbered effective January 1, 2006; adopted as Rule 3.2 effective July 1, 2000)

2.1.3 Tracking Cases

All pending cases shall be calendared for a future event. No pending case shall go off calendar without a future event being set. (Rule 2.1.3 renumbered effective January 1, 2006; adopted as Rule 3.3 effective May 14, 2001)

2.1.4 Notice of Case Management Conference

A. At the time the complaint is filed, the Clerk will issue a Notice of Case Management Conference to plaintiff, designating a date for a Case Management Conference that is no less than 120 days after the filing of the complaint. Plaintiff shall serve a copy of the Notice of Case Management Conference on each defendant along with the summons and complaint.

B. Any party who files and serves a cross-complaint prior to the Case Management Conference shall serve on each cross-defendant who is a new party to the action a copy of the Notice of Case Management Conference along with the summons and cross-complaint. If a new cross-defendant is served after the initial Case Management Conference, the cross-complainant shall serve the new cross-defendant with notice of any pending Case Management Conference, any assigned trial or settlement conference dates, and any other dates set by the court or orders made at the Case Management Conference.

C. If plaintiff adds a new defendant or identifies a fictitiously named defendant after the initial Case Management Conference, along with the summons and complaint, plaintiff shall serve the newly named defendant with notice of any pending Case Management Conference, any assigned trial and settlement conference dates,

FRESNO COUNTY SUPERIOR COURT

and any other dates set by the court or orders made at the Case Management Conference.

D. Proof of service of notice of a Case Management Conference shall be filed with the court and may be included in the proof of service of the summons and complaint or cross-complaint (Rule 2.1.4 renumbered effective January 1, 2006; adopted as Rule 3.4 effective May 14, 2001)

2.1.5 Service and Filing of Proof of Service

A plaintiff shall serve all named defendants with all pleadings and notices required by these rules or other law, including notice of a Case Management Conference, and shall file proof of service with the court, within sixty (60) days from the date the complaint is filed. (Rule 2.1.5 renumbered effective January 1, 2006; adopted as Rule 3.5 effective July 1, 2002)

2.1.6 Extensions of Time by the Court

A. The court may extend any time requirement for service of process or for filing proof of service or responsive pleadings upon a showing of good cause on noticed motion or by ex parte application, which may be made on the form available from the Clerk's Office and on the court's website. The motion or application must be filed before the expiration of the initial time period within which the act is required to be done. When a request for an extension is filed, the court may deny the request, grant an extension of time to a specified date, or conduct a hearing on the matter.

B. When applying to the court to extend time for service of process based on the conditions stated in Code of Civil Procedure § 583.240, the plaintiff shall set forth the earliest date by which service may reasonably be effected so that the court may set a date for service and for the filing of a proof of service. (Rule 2.1.6 renumbered effective January 1, 2006; adopted as Rule 3.6 effective May 14, 2001)

2.1.7 Case Management Plans

A. All general civil cases and complex litigation shall be assigned to one of the following case management plans:

1. Plan 1: cases to be disposed of within 12 months.
2. Plan 2: cases to be disposed of within 18 months.
3. Plan 3: cases to be disposed of within 24 hours.
4. Exempt complex litigation: complex litigation as defined in Rule 1.1.4 that is not expected to be disposed of within 24 months.

FRESNO COUNTY SUPERIOR COURT

C. Plan 3 cases will be assigned a trial date that is approximately 630 days after the date the complaint was filed.

D. No trial date may be continued merely on stipulation of the parties. On a showing of good cause, the trial date may be continued by court order, obtained by noticed motion or by ex parte application presented to the Presiding Judge, or his or her designee, at least five (5) court days before trial. It may also be continued pursuant to (F) below.

E. If an application for a continuance is presented less than five (5) court days before the trial date, it shall contain a detailed factual declaration demonstrating good cause for the delay.

F. After a trial date has been assigned, any party who has a conflict with the trial date shall, immediately upon having knowledge of the conflict, submit a letter to the Presiding Judge and to all other parties notifying them of the conflict. The court shall maintain the trial date until the trial readiness hearing unless: (1) a continuance has been granted pursuant to (D) above, or (2) a continuance is approved by the Presiding Judge at the conclusion of the settlement conference. (Rule 2.1.10 renumbered effective January 1, 2006; adopted as Rule 3.10 effective January 1, 2002)

2.1.11 Complex Litigation

A. Cases designated as complex litigation shall be exempt from the case disposition time standards of Rule 2.1.2. When a case is designated as complex litigation, the case shall be referred to the Presiding Judge or his designee, who may assign the case to one judge for all purposes or make other orders as appropriate.

B. If the case is assigned to one judge for all purposes, any pending or future Case Management Conference will be heard before the assigned judge. At or after the Case Management Conference, the assigned judge shall establish a case progression plan and assign a trial date designed to ensure that the case will progress to a disposition in a timely fashion, consistent with the purposes of the Trial Court Delay Reduction Act and with the particular needs of the case. After assignment, the assigned judge shall hear all of the proceedings in the case, except the mandatory settlement conference and except as otherwise ordered by the Presiding Judge. The assigned judge shall monitor the case to its conclusion, with the goal that it be disposed of within three (3) years after filing.

C. If the case is not assigned to one judge for all purposes, the case will be set for a further Case Management Conference before the Case Management Conference judge or another designated judge. The Case Management Judge or designated judge shall establish a case progression plan and monitor the case to ensure timely disposition consistent with the exceptional circumstances, with the goal of disposition within three (3) years after filing. (Rule 2.1.11 renumbered effective January 1, 2006; adopted as Rule 3.11 effective July 1, 2003)

FRESNO COUNTY SUPERIOR COURT

2.1.12 Continuance or Modification

No time standard or deadline specified in these rules, nor any schedule, date, time limitation or other requirement imposed by any order made pursuant to these rules may be modified, extended or voided by any stipulation or agreement of the parties unless a written order approving it is obtained from the court. Continuances, extensions or modifications may be obtained by noticed motion or ex parte application, on a showing of good cause. (Rule 2.1.12 renumbered effective January 1, 2006; adopted as Rule 3.12 effective May 14, 2001)

2.1.13 Settlement and Conditional Settlement

A. When a case settles, whether by conditional settlement or otherwise, the plaintiff shall comply with Rule 3.1385 of the California Rules of Court. Written notice of settlement shall be given on the Notice of Settlement form, which is available from the Clerk's Office and on the court's website.

B. When a settled case has not been dismissed within 45 days of the notice of settlement or within 45 days of the dismissal date specified in the notice, if the settlement is conditional, the court will set the matter for a Rule 3.1385 hearing. An unexcused failure or plaintiff to appear at the hearing may result in the court's dismissal of the case.

C. An extension of time for filing the dismissal may be granted on a showing of good cause. Requests for extensions shall be made on the Request for Extension of Time to File Dismissal form, which is available from the Clerk's Office and on the court's website. (Effective July 1, 2007; Rule 2.1.13 renumbered effective January 1, 2006; adopted as Rule 3.13 effective July 1, 2002)

2.1.14 Default Judgment

To obtain a default judgment a plaintiff shall present testimony in support of his or her claim by competent witnesses having personal knowledge of the essential facts, or file an affidavit or declaration by such witnesses, except for cases governed by Code of Civil Procedure § 585(a). When a plaintiff calendars a hearing for an application for default judgment, he or she must specify whether the proof will be by written declaration or oral testimony. Applications for default judgment on declarations pursuant to Code of Civil Procedure § 585(d) is the preferred procedure.

When submitting a matter for default judgment on declarations, the parties must comply with California Rules of Court, rule 3.1800. If a hearing has been scheduled and proof is to be by written declaration, the material required by rule 3.1800(a) must be submitted together as a single packet. Each exhibit must be separated by a hard 8 ½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. Any provision for attorney fees based on a contract must be highlighted within the written contract. Parties should file such default packets in the Clerk's Office at least five (5) court days prior to the scheduled hearing date.

FRESNO COUNTY SUPERIOR COURT

If, after reviewing the materials submitted, the Court determines that oral testimony or additional documentary evidence is necessary, it will indicate that in the tentative ruling posted before the hearing pursuant to Local Rule 2.2.6. (Effective January 1, 2012; Rule 2.1.14 renumbered effective January 1, 2006; adopted as Rule 3.14 effective July 1, 2000)

2.1.15 Signatures on Orders

It is the policy of the court not to sign orders or judgments unless some portion of the text of the order or judgment appears on the page to which the judicial officer's signature is affixed, so that the connection between the signature page and the remainder of the order or judgment is apparent. (Rule 2.1.15 renumbered effective January 1, 2006; adopted as Rule 3.15 effective July 1, 2000)

2.1.16 Designation of Counsel

When a law firm is the attorney of record in a civil action, the attorney who signed the initial pleading shall be designated to receive notices in the case. If, after the filing of the initial pleading, the attorney who is to receive notices changes, then a Designation of Counsel must be filed with the court. The designation must include the name and state bar number of the designated attorney. The designation may be made on a form available from the Clerk's Office and on the court's website. (Rule 2.1.16 renumbered effective January 1, 2006; adopted as Rule 3.16 effective May 14, 2001)

(Rule 2.1 renumbered effective January 1, 2006; adopted as Rule 3 effective July 1, 1992)

RULE 2.2 CIVIL LAW AND MOTION

2.2.1 Setting Law and Motion Hearing

Prior to the filing of any law and motion matter, a date and time for hearing shall be reserved with the Clerk. Matters will be set for hearing by the Clerk upon receipt of a duly served notice of motion and supporting documents, with the hearing scheduled in accordance with the date and time reserved. (Rule 2.2.1 renumbered effective January 1, 2006; adopted as Rule 4.1 effective January 1, 1997)

2.2.2 Taking Law and Motion Hearing Off Calendar

A. Any party who reserves a date and time for hearing with the Clerk, but fails to timely file moving papers for a hearing on that date, shall promptly notify the Clerk and request that the hearing be taken off calendar.

B. Unless otherwise ordered by the court, any moving party who wishes to have a law and motion taken off calendar after the moving papers have been filed but before a response has been filed, may be required to give written notice to the Clerk, the assigned judge, and all parties at least five (5) court days before the scheduled hearing date. Notice to the Clerk may be sent by facsimile and shall be accompanied by proof that notification was given to all parties. Proof of notification to all parties may be made:

FRESNO COUNTY SUPERIOR COURT

1. By proof of service by mail, or
2. By letter indicating that a copy thereof has been sent by facsimile to all parties, or
3. By a declaration stating when, and in what manner, notice was given to all parties.

C. A law and motion matter may also be taken off calendar by stipulation of the parties at least five (5) court days before the scheduled hearing, with written notice to the Clerk and assigned judge. Notice to the Clerk and assigned judge may be given by facsimile.

D. Any moving party who wishes to have a law and motion matter taken off calendar after the responsive papers have been filed shall do so by stipulation of the parties or shall obtain the permission of the assigned judge and give written notice to all parties. Proof of notification to all parties shall be made as described in (B) above.

E. Within five (5) court days of the hearing, permission to take the matter off calendar shall be obtained only from the assigned judge. (Rule 2.2.2 renumbered effective January 1, 2006; adopted as Rule 4.2 effective January 1, 2003)

2.2.3 Continuing a Law and Motion Hearing

A. Any request for continuance of a law and motion hearing, may be required to be made in writing to the assigned judge at least five (5) court days before the scheduled hearing with proof of notification to all parties as described in Rule 2.2.2. The request may be submitted by facsimile. The request for continuance shall include a specific date for the continued hearing and a statement indicating whether the other parties consent or object to the continuance and/or the requested new hearing date.

B. If the request is made after the five (5) court day time limit has passed, the request shall contain a detailed factual explanation demonstrating good cause for the delay. (Rule 2.2.3 renumbered effective January 1, 2006; adopted as Rule 4.3 effective January 1, 2003)

2.2.4 Additional Copies

In cases other than limited civil cases, the court requests that any papers filed with the Clerk in connection with a law and motion matter be accompanied by one full set of copies of the original (including exhibits). (Rule 2.2.4 renumbered effective January 1, 2006; adopted as Rule 4.4 effective July 1, 2000)

2.2.5 Telephonic Appearances

When telephone appearances are allowed, attorneys or parties may appear by "Court Call," by making prior arrangements with the private company that administers the program. Court Call may be arranged by calling (888) 882-6878, or the telephone number of any other vendor as approved by the Court. (Effective July 1, 2008; Rule 2.2.5 renumbered effective January 1, 2006; adopted as Rule 4.5 effective July 1, 2000)

FRESNO COUNTY SUPERIOR COURT

2.2.6 Tentative Rulings

A. The court follows the tentative ruling procedure set forth in Rule 3.1308(a)(1) of the California Rules of Court. A tentative ruling on civil law and motion matter may be obtained by:

1. Telephoning the court at (559) 457-4943; or
2. Accessing tentative rulings on the court's website.

B. If a party wishes to appear for oral argument, the notice to be given to the court, as required by Rule 3.1308(a)(1) of the California Rules of Court, must be given by telephone to the clerk in the department to which the matter is assigned for hearing. (Effective January 1, 2010; Rule 2.2.6 renumbered effective January 1, 2006; adopted as Rule 4.6 effective January 1, 2005)

RULE 2.3 EARLY MANDATORY MEDIATION PILOT PROGRAM

Repealed. (Effective January 1, 2007)

RULE 2.4 ALTERNATIVE DISPUTE RESOLUTION (ADR)

2.4.1 ADR Information

Attorneys shall provide their clients with a copy of the ADR information package at the earliest available opportunity. Upon request, the ADR information package may be obtained from the Clerk. Plaintiffs and cross-complainants shall serve a copy of the ADR information package on each defendant or cross-defendant as required by the California Rules of Court. (Rule 2.4.1 renumbered effective January 1, 2006; adopted as Rule 7.1 effective May 14, 2001)

2.4.2 Judicial Arbitration

The provisions of Chapter 2.5, commencing with § 1141.10 of the Code of Civil Procedure and the provisions of California Rules of Court set forth in Title 3, commencing with Rule 3.810, regarding judicial arbitration shall apply to all civil cases as stated therein. It is determined to be in the interest of justice that any at-issue limited civil case pending on or filed after September 1, 1997, may be ordered by the court to arbitration, except as otherwise provided by law. (Effective July 1, 2007, Rule 2.4.2 renumbered effective January 1, 2006; adopted as Rule 7.2 effective May 14, 2001)

2.4.3 Mediation

The Presiding Judge has elected to apply the provisions of Code of Civil Procedure § 1775, et seq., to eligible cases. Cases eligible for judicial arbitration may be subject to court-ordered mediation. (Rule 2.4.3 renumbered effective January 1, 2006; adopted as Rule 7.3 effective May 14, 2001)

(Rule 2.4 renumbered effective January 1, 2006; adopted as Rule 7 effective July 1, 1992)

FRESNO COUNTY SUPERIOR COURT

RULE 2.5 MANDATORY SETTLEMENT CONFERENCE

2.5.1 Mandatory Settlement Conference

A mandatory settlement conference shall be held pursuant to Rule 2.5 for every civil case set for trial on the master calendar, except as follows:

A. Small claims, unlawful detainers, and family law cases. (For Family Law Department requirements, refer to Rule 5.7.)

B. Short cause cases.

C. In any case where, at least thirty (30) days prior to the date set for trial, all parties have filed a written stipulation that they have previously engaged in one court-supervised settlement conference and do not believe another settlement conference would be productive. Plaintiff shall notify the calendar Clerk of the filing of the stipulation.

D. In any case where, at least thirty (30) days prior to the date set for trial, all parties have filed a written stipulation that they have engaged in mediation, conducted by a neutral mediator, and do not believe a settlement conference would be productive. Plaintiff shall notify the calendar Clerk of the filing of the stipulation.

E. By order of the court for good cause, based upon a petition addressed to the Presiding Judge citing this rule, filed and served on all other parties at least thirty (30) days prior to trial. Opposition to the petition shall be in writing, addressed to the Presiding Judge, filed and served on all parties no later than ten (10) days after service of the petition. There will be no oral argument on such petitions. Parties will be notified of the court's ruling. Good cause requires facts supporting the conclusion that it would be extremely unlikely that a settlement conference will resolve the case. (Rule 2.5.1 renumbered effective January 1, 2006; adopted as Rule 8.1 effective January 1, 1997)

2.5.2 Meet and Confer Prior to Settlement Conference

A. In all cases set for a settlement conference where the parties are not excused from attending the settlement conference, the parties shall meet and confer prior to the date set for the settlement conference in a good faith attempt to settle all issues. The requirement of this rule is met by a face-to-face meeting between the parties, or by engaging in mediation before a neutral mediator. If, however, an attorney's office is located outside of Fresno County, or a party in pro per resides outside of Fresno County, that party may meet the requirement of this rule by meeting and conferring telephonically in a good faith attempt to settle all issues. Communication by writing will not suffice.

B. The fact of compliance with this rule, and the results of the meet and confer conference shall be set forth in the settlement conference statement. (Rule 2.5.2 renumbered effective January 1, 2006; adopted as Rule 8.2 effective January 1, 1998)

FRESNO COUNTY SUPERIOR COURT

2.5.3 Further Settlement Conference on Day of Trial

Notwithstanding Rule 2.5.1, the Presiding Judge may order any case to a further settlement conference on the day the case is set for trial. (Rule 2.5.3 renumbered effective January 1, 2006; adopted as Rule 8.3 effective January 1, 1997)

2.5.4 Conflicts in Scheduling and Special Requests

A. Any part who wishes to request a change in a settlement conference date due to a scheduling conflict, or who wishes to make any other special request regarding a settlement conference, shall present that request to the Presiding Judge by letter, with a copy mailed to each party, at least thirty (30) days prior to the date set for the settlement conference. Any party wishing to respond to the request shall respond by letter to the Presiding Judge, with a copy mailed to each party, within two (2) days of receipt of the request letter.

B. If the request is made after the thirty-day limit has passed, the request shall include a detailed factual declaration demonstrating good cause for the delay.

C. The party making the request may submit a stipulation or other paper reflecting the consent of all other parties to the proposed change. The court will generally not grant a request for a change of date for the settlement conference unless all parties have been contacted by the requesting party and have agreed to a new date and time.

D. Parties will be notified of the court's ruling.

E. On the request of an attorney whose office is located outside the County of Fresno, the court will attempt, if possible, to reschedule a settlement conference at a different time, but on the same date, when such request is made pursuant to subparagraph A above. (Rule 2.5.4 renumbered effective January 1, 2006; adopted as Rule 8.4 effective January 1, 1997)

2.5.5 Attendance

A. **Parties.** All parties shall be personally preset at the settlement conference except that an insured party is not required to appear where that party's insurance carrier admits coverage for all causes of action alleged against that party, full authority has been granted by such insured party to the carrier and attorney to settle within policy limits, and the highest demand for settlement is within policy limits. However, where the carrier assumes the defense pursuant to a reservation of rights, the insured shall attend the settlement conference also.

A party who is not an individual shall appear by a representative who shall be fully familiar with the facts of the case and have full authority to settle. If the party's governing body is a board, council, or committee which is required to approve settlement, the representative attending the settlement conference on behalf of that

FRESNO COUNTY SUPERIOR COURT

party shall have authority to recommend approval directly to such governing body, without seeking approval from any other person prior to making such recommendation.

B. **Attorneys.** The trial attorney for the case shall be personally present. The only exception shall be where the trial attorney is engaged in another trial at the same time as the settlement conference, in which case another attorney from the trial attorney's office shall attend, who is fully familiar with the facts of the case and has full authority to settle and who has discussed the case thoroughly with the client prior to the settlement conference.

C. **Insurance Claims' Employee.** In any case which requires consent of an insurance carrier to settle, an employee of the insurance carrier, who is fully familiar with the case and who has full authority to settle, shall be personally present. A claims adjuster retained only for the purpose of attending the settlement conference will not be acceptable. If the insurance carrier has no claims office located in California, and the court has been so notified pursuant to these rules, the personal attendance of an employee of the carrier is not required; provided, however, an employee of the insurance carrier with full authority to settle shall be immediately available by telephone until released by the court, regardless of the time zone.

D. **Consent of Others.** Where the consent of a spouse, business partner or other person is necessary to achieve settlement, even though this person is not a named party, every reasonable effort shall be made to either secure the attendance of such person at the settlement conference or have that person immediately available by telephone until released by the court.

E. **Structured Settlements for Minors.** In any case involving possible settlement for the benefit of a minor, where the settlement value might reasonably exceed \$25,000.00, the defendant seeking settlement with the minor shall bring to the settlement conference, or, throughout the settlement conference shall have immediate access to, a person qualified to compute present values under a structured settlement.

F. **Excused Attendance.** Subject to the above the court will not excuse parties, attorneys, or insurance carrier employees from required attendance except upon a timely showing of good cause by written declaration.

G. **"Full Authority to Settle Defined.** In the case of a plaintiff or cross-complainant, "full authority" to settle means the attendee shall have the individual discretion and authority to negotiate, without consultation with others, and dismiss the complaint or cross-complaint in return for no consideration from the defendant or cross-defendant. In the case of a defendant or cross-defendant, "full authority" to settle means the attendee shall have the individual discretion and authority to negotiate, without consultation with others, and pay the highest demand made to date by the plaintiff or cross-complainant.

In the case of public entity parties whose elected bodies (e.g., City Council, Board of Supervisors) must approve a settlement, the attendee must be an authorized

FRESNO COUNTY SUPERIOR COURT

representative of the public entity who is fully informed as to the parameters under which the entity will approve a settlement. (Rule 2.5.5 renumbered effective January 1, 2006; adopted as Rule 8.5 effective January 1, 2005)

2.5.6 Settlement Conference Statement

A. Each party shall mail to the Presiding Judge and serve on all parties a settlement conference statement, in pleading or letter form, preferably at least ten (10) days prior to the settlement conference, but in no event later than five (5) court days prior to the settlement conference. Settlement conference statements will not be filed or kept in the court file, and must be submitted anew for each additional settlement conference.

B. In addition to the subject matter required by Rule 3.1380(c) of the California Rules of Court, the settlement conference statement shall contain:

1. The names of parties and their attorneys.
2. Whether or not an insurance carrier employee is required to be personally present, and, if so, the identity of the carrier.
3. Whether or not a board, council or other committee must approve of settlement, and, if so, the identity of that body.
4. Whether or not the consent of a person who is not a named party is necessary to achieve settlement, and, if so, the identity of that person.
5. The fact and results of compliance with Rule 2.5.2 and the results of prior mediation or arbitration.
6. Prior settlement negotiations.
7. Code of Civil Procedure § 998 demands.
8. Whether or not further discovery contemplated, and, if so, a description of it. (Effective July 1, 2007; Rule 2.5.6 renumbered effective January 1, 2006; adopted as Rule 8.6 effective July 1, 1999)

2.5.7 Further Settlement Conferences Before Trial

To ensure a meaningful settlement conference prior to trial, the court may set the matter for further settlement conferences prior to the date set for trial, or, with the consent of the Presiding Judge, may remove the case from the trial calendar and order the parties to obtain a new settlement conference and trial date. (Rule 2.5.7 renumbered effective January 1, 2006; adopted as Rule 8.7 effective January 1, 1997)

FRESNO COUNTY SUPERIOR COURT

2.5.8 Mandatory Settlement Conferences at Trial Readiness Hearing

All parties to Unlimited and Limited Civil Cases for which a Trial Readiness Hearing has been calendared are required to attend a mandatory settlement conference at the time and place of the Trial Readiness Hearing (see Local Rule 2.6.2). The settlement conference shall be subject to the provisions of Local Rule 2.5.5. (Effective January 1, 2009; Rule 2.5.8 renumbered effective January 1, 2006; adopted as Rule 8.8 effective January 1, 2005)

(Rule 2.5 renumbered effective January 1, 2006; adopted as Rule 8 effective July 1, 1992)

RULE 2.6 TRIAL READINESS

2.6.1 Meet and Confer

In all civil cases, except short cause cases, the attorneys for the parties shall meet and confer at least five (5) days prior to the date set for trial in order to accomplish the following:

A. All in limine motions and motions for judgment on the pleadings shall be in writing and exchanged by the parties. The trial court will not hear oral in limine motions or those not exchanged except for good cause shown.

B. If a jury has been requested, the parties shall prepare and exchange proposed jury instructions and shall prepare a jointly signed neutral statement of the case.

C. If a jury has not been requested, the parties shall prepare and exchange trial briefs. The trial court will not accept trial briefs not exchanged except for good cause shown.

D. The parties shall identify and list the proposed exhibits, and exchange such lists.

E. The foregoing papers shall be submitted to the trial judge at trial readiness. (Effective July 1, 2011; Rule 2.6.1 renumbered effective January 1, 2006; adopted as Rule 9.1 effective January 1, 1998)

2.6.2 Trial Readiness Hearing

A. Except for short cause cases, the Presiding Judge shall set and conduct a trial readiness hearing on the Friday prior to the date set for trial. The Presiding Judge, in his or her discretion, may excuse a case from the trial readiness hearing.

B. The attorney trying the case is required to be personally present at this hearing. In the event the trial attorney has a conflict preventing his or her presence, the trial attorney must make arrangements to have another attorney present, who is familiar with the case and its state of readiness for trial, and who has authority to confirm and/or continue the trial date.

FRESNO COUNTY SUPERIOR COURT

C. Any party may appear telephonically with prior approval of the assigned department.

D. Unless otherwise ordered by the Court, the parties shall provide the Court with the following documents at the trial readiness hearing: Motions in limine, motions for judgment on the pleadings, proposed jury instructions, the joint neutral statement of the case, trial briefs, an exhibit list and a witness list. (Effective July 1, 2011; Rule 2.6.2 renumbered effective January 1, 2006; adopted as Rule 9.2 effective July 1, 2000)

(Rule 2.6 renumbered effective January 1, 2006; adopted as Rule 9 effective July 1, 1992)

RULE 2.7 EX PARTE APPLICATIONS

2.7.1 Format and Filing

A. All applications for ex parte orders failing to comply with Rules 3.1200 through 3.1207 of the California Rules of Court will be rejected. Parties making ex parte applications shall obtain a date and time for the hearing of the application from the Clerk (Civil Calendar Division).

B. The court requests that the party seeking an ex parte order submit the application and all supporting papers and fees to the Clerk for filing not later than 2:00 p.m. on the day preceding the hearing, if the hearing is set in the morning, and not later than 9:00 a.m. on the date of the hearing, if the hearing is set in the afternoon. (Effective July 1, 2008; Rule 2.7 renumbered effective January 1, 2006; adopted as Rule 10 effective July 1, 2000)

2.7.2 Cases in Which Hearings Not Required

An ex parte application will be considered without a hearing in the following cases:

1. Application to file a memorandum of points and authorities in excess of the applicable page limit;
2. Stipulation by the parties for an order;
3. Application for appointment of a guardian ad litem in a civil case;
4. Application for an order extending time to serve pleading;
5. Application to serve by publication;
6. Extension of time by the court pursuant to the Superior Court of Fresno County, Local Rules, rule 2.1.6;
7. Motion to continue trial pursuant to the Superior Court of Fresno County, Local Rules, rule 2.1.10;

FRESNO COUNTY SUPERIOR COURT

8. Application to substitute Doe under CCP 474. (Effective July 1, 2008, New)

RULE 2.8 MISCELLANEOUS CIVIL RULES

2.8.1 Civil Jury Fees

A. Trial by jury shall be deemed waived unless jury fees are deposited no later than twenty-five (25) days prior to the trial in any case not entitled to priority setting, or deposited five (5) days prior to trial in any unlawful detainer case or other case entitled to priority setting.

B. Should any party demanding jury trial fail to deposit required fees, the Clerk will notify all other parties who have not previously waived trial by jury. Any such party may preserve its right to trial by jury by depositing the required fees within five (5) court days of mailing of the Clerk's notice.

C. Failure by any party to deposit jury fees as required herein shall constitute waiver of trial by jury. (Rule 2.8.1 renumbered effective January 1, 2006; adopted as Rule 11.1 effective January 1, 1997)

2.8.2 Use of Interpreters

Interpreters will not be provided for civil or small claims matters, unless otherwise ordered by the court. Upon request, the Clerk will provide the names of authorized interpreters with whom a party may make arrangements for interpreting services, or may refer the party to the court's interpreter coordinator. Any party requiring the services of an interpreter is responsible for arranging and paying for the services of such interpreter unless otherwise ordered by the court. (Rule 2.8.1 renumbered effective January 1, 2006; adopted as Rule 11.2 effective January 1, 1997)

2.8.3 Attorney's Fees

A. Attorney's fees in default cases, when allowable in designated cases, shall be fixed in accordance with Appendix A1, except as otherwise ordered by the court.

B. When an attorney is appointed to represent a party in designated cases, the attorneys' fees are governed by the Fresno County Courts Appointed Counsel/Expert General Claim Processing Practices (FCCAC/EGCPP), a copy of which is available from the Clerk. (Rule 2.8.3 renumbered effective January 1, 2006; adopted as Rule 11.3 effective January 1, 2005)

2.8.4 Compromise of Claims of Minors or Incompetent Persons

A. Petitions to compromise the claims of minors or incompetent persons shall be made on the appropriate Judicial Council forms, in accordance with Rule 7.950, et seq., of the California Rules of Court. Such petitions must be filed with the court at least ten (10) court days prior to the hearing date. If the original petition is denied without

FRESNO COUNTY SUPERIOR COURT

prejudice and the petitioner wishes to renew the request, the petitioner must file an amended petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition.

B. If a petition to withdraw from deposit is made:

1. The certificate of deposit must have been completed and filed prior to filing of the petition for withdrawal.

2. In the event the petition to withdraw funds is based upon the denial of a public agency providing public assistance to provide funds because of the existence of the account, a copy of the written notice from the agency concerned, so stating, shall be attached to the petition.

C. If an order for withdrawal of funds is made, within fifteen (15) days from the date of the order, a declaration of expenditures made with the funds shall be filed with the Clerk.

D. Attorney's fees, if awarded, shall be awarded in conformity with Rule 7.955 of the California Rules of Court. In computing fees, parents claiming reimbursement for medical and other expenses shall pay their proportionate share of the attorneys' fees, except in cases of hardship. (Effective July 1, 2007; Rule 2.8.4 renumbered effective January 1, 2006; adopted as Rule 11.4 effective July 1, 2002)

2.8.5 Court Reporter Fees

A. In any civil case in which a trial or hearing is expected to last more than one (1) hour, but not more than four (4) hours, and official reporting services (by court reporter or electronic recording) are required, the parties shall deposit with the Clerk their pro rata shares of the fee for one-half (1/2) day of official reporting services.

B. In any civil case in which a trial or hearing is expected to last more than four (4) hours and official reporting services are required, the parties shall deposit with the Clerk their pro rata shares of the fee for one (1) full day of official reporting services.

C. The fee shall be deposited not later than the conclusion of each day's court session. The fee for any subsequent day of the trial or hearing shall be deposited with the Clerk not later than the conclusion of each day's court session.

D. Attorneys must be prepared to produce receipts for fees on demand of the court or the trial or hearing may not proceed at the discretion of the Court. (Effective January 1, 2008; Rule 2.8.5 renumbered effective January 1, 2006; adopted as Rule 11.5 effective July 1, 2000)

2.8.6 Filing Limited Civil Cases in Proper Court Division

A. Unless otherwise ordered, limited civil cases, including unlawful detainer cases, shall be filed and litigated in the division of the court designated by this rule. The location that determines the proper venue of a case (e.g., the place of defendant's

FRESNO COUNTY SUPERIOR COURT

residence, the place the contract was entered into, etc.) shall also determine the proper court division in which the case is to be filed. If the case is filed in a division other than that specified in this rule, it may be transferred to the proper division on the court's own motion or on motion of any party.

B. The proper court division for the filing of the case shall be determined by the zip code covering the location on which venue is based. A list of the zip codes and the corresponding court divisions in which cases are to be filed may be obtained from the Clerk's Office at any division of the court or may be accessed on the court's website. (Effective January 1, 2007; Rule 2.8.6 renumbered effective January 1, 2006; adopted as Rule 11.6 effective January 1, 2005)

2.8.7 Firearms Forfeiture Default

On a petition for order of default regarding a firearms forfeiture pursuant to Welfare and Institutions Code § 8102, subdivision (g), the agency seeking the default shall file their petition for default ten (10) court days preceding the date set for the hearing. (Effective January 1, 2008, New)

2.8.8 Petitions for Approval of Transfers of Structured Settlements

A. All parties to a petition for approval transferring structured settlement payments must appear at the hearing on such petitions, including the payee and the payee's counsel (if any). The petitioner filing a petition for approval of transfer of any structured settlement payments pursuant to Insurance Code § 10134 et seq. shall include with their petition the following information and documents.

1. The jurisdiction and case number of any other petition by the petitioner seeking approval to purchase any structured settlement payments from the payee;
2. A copy of the entire court file for any prior petition by the petitioner seeking approval for purchase of any structured settlement payments from the payee;
3. A declaration from the payee's counsel wherein he or she provides the total number of and lists all other petitions (along with their case numbers and court) wherein he or she has represented a payee who attempted to sell payments to the same petitioner;
4. A declaration from the payee's attorney listing any professional, financial, or personal relationship with the petitioner's employees or petitioner's counsel, past or present, as well as how counsel first came into contact with the payee if other than by a referral from a bar association as described in the statute;

FRESNO COUNTY SUPERIOR COURT

5. A declaration from the petitioner describing any contacts by its personnel with the payee's counsel, including copies of each written communication;

6. A declaration from any of petitioner's personnel having contact with the payee describing all communications, to include any and all documentation of such communications whether on paper or stored electronically;

7. A declaration from petitioner as to any communications it conducted or facilitated with the annuity issuer, owner, or beneficiary, and a copy of all such communications whether on paper or stored electronically;

8. A declaration from petitioner which includes all documents it plans to or has used with regard to the attempted purchase of any structured settlement payments from the payee, including UCC filings. If such documents exist whether on paper or stored electronically, they are to be attached. (Effective July 1, 2010, New)

(Rule 2.8 renumbered effective January 1, 2006; adopted as Rule 11 effective July 1, 1992)

RULE 2.9 UNLAWFUL DETAINER CASES

2.9.1 Case Disposition Time

The court shall endeavor to dispose of all unlawful detainer cases as follows: 90% within thirty (30) days after filing; and 100% within forty-five (45) days after filing. (Rule 2.9.1 renumbered effective January 1, 2006; adopted as Rule 12.1 effective July 1, 2000)

2.9.2 Notice of Dismissal Hearing

Approximately two (2) weeks after the filing of the case Clerk will issue a Notice of Dismissal Hearing to plaintiff, designating a date for a Dismissal Hearing that is within 45 days after the filing of the complaint. (Effective July 1, 2010; Rule 2.9.2 renumbered effective January 1, 2006; adopted as Rule 12.2 effective May 14, 2001)

2.9.3 Service and Filing of Proof of Service

Within fifteen (15) days from the date the unlawful detainer complaint was filed, plaintiff shall serve all named defendants and file proof of service with the court or shall file an application for a posting order, unless a responsive pleading has been filed. (Rule 2.9.3 renumbered effective January 1, 2006; adopted as Rule 12.3 effective May 14, 2001)

2.9.4 Request to Set Case for Trial

Within twenty-five (25) days after the date the unlawful detainer complaint was filed, plaintiff shall file a Request to Set Case for Trial, unless there has been a final disposition of the case or a notice of settlement or stay has been filed. The Request to Set Case for Trial shall be submitted on a form which is available from the Clerk's Office or on the court's website. By filing a Request to Set Case for Trial a party represents

FRESNO COUNTY SUPERIOR COURT

that the case is at issue and will be ready to proceed to trial on the date assigned. (Effective July 1, 2010; Rule 2.9.4 renumbered effective January 1, 2006; adopted as Rule 12.4 effective May 14, 2001)

2.9.5 Dismissal Hearing

A. Plaintiff shall attend the Dismissal Hearing, either in person or by telephonic appearance. At the hearing, the status of the case will be discussed, including whether the case should be set for trial or dismissed. Appropriate orders will be made.

B. Failure of the plaintiff to appear may result in dismissal of the case.

C. A dismissal hearing will be taken off calendar if a trial date has been set, a Request to Set Case for Trial has been filed, or there has been a final disposition of the case. A dismissal hearing will be continued if a notice of settlement or stay has been filed with the court prior to the date of the dismissal hearing. If any of these conditions exists, it is the responsibility of the parties to notify the TCDR Clerk in writing and ask that the Conference be taken off calendar or continued. (Effective July 1, 2010; Rule 2.9.5 renumbered effective January 1, 2006; adopted as Rule 12.5 effective May 14, 2001)

2.9.6 Assignment of Case for Trial

If the Request to Set Case for Trial complies with these rules in all respects, the Clerk shall assign the case for trial within twenty (20) days after the date the Request to Set Case for Trial was filed, and mail notice of the trial date to the parties at least ten (10) days before the trial date. (Effective July 1, 2010; Rule 2.9.6 renumbered effective January 1, 2006; adopted as Rule 12.6 effective May 14, 2001)

2.9.7 Hearing to Prove Damages

A. After a Clerk's judgment for restitution of the premises has been entered, a plaintiff seeking to recover money damages shall set the case for a hearing to prove damages within six (6) months after the judgment is entered.

B. A personal appearance will not be required if a declaration is submitted pursuant to § 585(b) and (d) of the Code of Civil Procedure. (Rule 2.9.7 renumbered effective January 1, 2006; adopted as Rule 12.7 effective July 1, 2000)

2.9.8 Undertaking for Immediate Possession of Premises

Unless otherwise ordered by the court, the minimum amount of undertaking required for an order for immediate possession of premises, pursuant to § 1166a of the Code of Civil Procedure, shall be ten (10) times the amount of monthly rental, but not less than \$500.00. (Rule 2.9.8 renumbered effective January 1, 2006; adopted as Rule 12.8 effective July 1, 2000)

FRESNO COUNTY SUPERIOR COURT

2.9.9 Judgment

When a judgment for restitution or possession of the premises under Code of Civil Procedure § 1169 or 1174 is prepared and submitted by plaintiff, it shall describe with reasonable certainty the real property that is the subject of the judgment, giving its street address (including the zip code), if any, or other common designation, if any. (Rule 2.9.9 renumbered effective January 1, 2006; adopted as Rule 12.9 effective January 1, 2003)

2.9.10 Notice of Restricted Access

Each plaintiff who files an action for Unlawful Detainer, for which a Notice of Restricted Access must be mailed to the defendants pursuant to Code of Civil Procedure § 1161.2(c), must provide to the court at the time of filing the action, (1) a separate stamped, legal-size envelope addressed to each defendant named in the action at the address provided in the complaint, and (2) a stamped, legal-size envelope addressed to "All Occupants" at the subject premises. (Rule 2.9.10 renumbered effective January 1, 2006; adopted as Rule 12.10 effective January 1, 2005)

(Rule 2.9 renumbered effective January 1, 2006; adopted as Rule 12 effective July 1, 1992)

RULE 2.10 SMALL CLAIMS CASES

2.10.1 Case Disposition Time

The court shall endeavor to dispose of all small claims cases as follows: 90% within seventy (70) days after filing; and 100% within ninety (90) days after filing. (Rule 2.10.1 renumbered effective January 1, 2006; adopted as Rule 13.1 effective July 1, 2000)

2.10.2 Unserved Defendants

A. If proof of service on the defendant in a small claims case has not been filed by the date set for trial, the case will not be heard on that date. The court or the Clerk may reset the case for trial.

B. If more than one defendant is named in the plaintiff's claim, and proof of service as to some, but not all, of the defendants has been filed prior to the date set for trial, the court may continue the trial of the case as provided in § 116.570 of the Code of Civil Procedure, or trial may proceed only as to those defendants who have been served. The court or the Clerk may reset the case for trial as to any remaining defendants. (Rule 2.10.2 renumbered effective January 1, 2006; adopted as Rule 13.2 effective July 1, 2000)

2.10.3 Untimely Small Claims Appeals

No notice of appeal from a small claims judgment shall be accepted for filing after the statutory period for filing such an appeal has expired, unless a writ of mandate ordering the Clerk to file the notice of appeal has been issued. (Rule 2.10.3 renumbered effective January 1, 2006; adopted as Rule 13.3 effective July 1, 2001)

FRESNO COUNTY SUPERIOR COURT

2.10.4 Filing Small Claims Cases in Proper Court Division

Unless otherwise ordered, small claims cases shall be filed and litigated in the division of the court designated by Rule 2.8.6. If the case is filed in a division other than that specified in this rule, it may be transferred to the proper division on the court's own motion or on the request of any party. (Rule 2.10.4 renumbered effective January 1, 2006; adopted as Rule 13.4 effective July 1, 2003)

(Rule 2.10 renumbered effective January 1, 2006; adopted as Rule 13 effective July 1, 1992)

(Chapter 2 amended effective January 1, 2006; adopted as II effective July 1, 1992)

RULE 2.11 CASES INVOLVING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

2.11.1 Assignment of CEQA Cases

A. **Judge for All Purposes.** Unless otherwise specified in these rules or ordered by the Presiding or Supervising Judge, all CEQA cases will be assigned to a single judge for all purposes, including trial.

B. **Notice of Assignment.** A Notice of Assignment indicating the name and department number of the assigned judge, as well as the assigned judge's departmental schedule for noticed motions and ex parte applications, will be prepared by the court.

C. **Service of Notices.**

1. Service of Notice by Clerk

The clerk will serve the Notice of Assignment either by mail on counsel of record for petitioner and on any self-represented petitioner, or personally on petitioner or petitioner's representative at the time the petition is filed.

2. Service of Notice by Petitioner

The petitioner must serve the Notice of Assignment and the most recent case management conference notice on each named respondent or defendant either when that respondent or defendant is served with the summons and complaint, or as soon as petitioner receives the notice, whichever is later, and file a proof of service thereof.

D. **Designation of Assigned Judge in Subsequent Documents.** After a CEQA case is assigned, all subsequent documents must state on the face page, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO:
JUDGE [insert name]
DEPARTMENT [insert number]

FRESNO COUNTY SUPERIOR COURT

E. **Unavailability of Assigned Judge.** In the event of the temporary unavailability of the judge assigned to a CEQA case for all purposes, another judge may be assigned to hear matters in that case. Until and unless the court issues an order or notice revoking the existing single assignment or assigning a new judge for all purposes, any hearing that may take place before another judge does not affect the status of the case as originally assigned for all purposes. (Effective July 1, 2011, New)

2.11.2 **Preparation of the Administrative Record**

A. **Preparation by the Public Agency.** Within twenty (20) days after receipt of a statutory request that the public agency prepare the record of proceedings, the public agency responsible for such preparation must personally serve on petitioner a preliminary cost notification of the estimated cost of preparation, stating the agency's normal costs per page, other reasonable costs, if any, the agency anticipates, and the likely range of pages. This preliminary cost notification must also state, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, must designate the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and must provide a listing of dates and times when those documents will be made available to petitioners or any party for inspection during normal business hours as the record is being prepared. This preliminary cost notification must be supplemented by the agency from time to time as additional documents are located or determined appropriate to be included in the record.

B. **Notification that Petitioner Elects to Prepare the Record.** Upon receipt of this preliminary cost notification, petitioners may elect to prepare the record of proceedings themselves provided they notify the agency within five (5) days of such receipt. If petitioners so elect, then within forty (40) days of service of the statutory request that the public agency prepare the record of proceedings, petitioner must prepare and serve on all parties a detailed document index listing the documents proposed by petitioners to constitute the record of proceedings. Within seven (7) calendar days of receipt of the detailed document index, the agency, or other parties if any, must serve the petitioners and all parties, with a document notifying them of any document or item that such parties contend should be added to, or deleted from, the record of proceedings. The agency must promptly notify petitioners of any required photocopying procedures or other conditions with which petitioners must comply in their preparation of the record. Service of the foregoing shall conform to the Code of Civil Procedure, Part 2, Title 14, Chapter 5, § 1010 et seq.

C. **Notice by Agency of Proposed Record.** If petitioners do not elect to prepare the record of proceedings themselves, then within forty (40) days after service of the statutory request to prepare the record of proceedings, the agency must prepare and serve on the parties a detailed document index listing the documents proposed by the agency to constitute the record and provide a supplemental estimated cost of preparation. Within seven (7) calendar days of receipt of the detailed document index, petitioners, or other parties if any, must serve the agency and all parties with a

FRESNO COUNTY SUPERIOR COURT

document notifying the agency of any document or item that such parties contend should be added to, or deleted from, the record. Service of the foregoing shall conform to the Code of Civil Procedure, Part 2, Title 14, Chapter 5, § 1010 et seq. (Effective July 1, 2011, New)

2.11.3 **Format of the Administrative Record**

A. **Binding and Length of Volumes of the Administrative Record.** The administrative record must be provided in one or more volumes of not more than 300 pages that are separately bound. The pages of the administrative record must be numbered consecutively and bound on the left margin. The cover of each volume of the records must be the same size as its pages and contain the same material as the cover of a brief, but must be labeled “Administrative Record”.

B. **Index.** At the beginning of the first volume of the administrative record, there must be an index of each paper or record in the order presented in the record referring to each paper or record by title or description and the volume and page at which it first appears.

C. **Organization.** The administrative record must be organized in the following order:

1. The Notice of Determination;
2. All resolutions or ordinances adopted by the lead agency approving the project or required by law;
3. The Draft or revised Draft Environmental Impact Report and initial study;
4. The comments received on and the responses to those comments prepared for the Draft Environmental Impact Report or Negative Declaration, including any modification of the environmental documents and project made after the comment period;
5. The remainder of the Final Environmental Impact Report, including all appendices and other materials;
6. The staff reports prepared for the approving bodies of the lead agency;
7. Transcripts or minutes of all hearings; and
8. The remainder of the administrative record.

D. **Electronic Copy.** The administrative record must also be submitted in a *searchable*, .pdf file format. Indexing and organization should mirror the paper format.

FRESNO COUNTY SUPERIOR COURT

The party lodging the administrative record should simultaneously lodge two copies of the electronic administrative record – one for the court and one for research. (Effective July 1, 2011, New)

2.11.4 Disputes Regarding the Contents of the Administrative Record

Once the administrative record has been filed, any disputes about its accuracy or scope should be resolved by appropriate noticed motion. For example, if the agency has prepared the administrative record, petitioners may contend that it omits important documents or that it contains inappropriate documents; if the petitioners have prepared the record, the agency may have similar contentions. A motion to supplement the certified administrative record with additional documents or to exclude certain documents from the record may be noticed by any party and should normally be filed concurrently with the filing of petitioner's opening memorandum of points and authorities in support of the writ. Opposition and reply memoranda on the motion should normally be filed with the opposition and reply memoranda, respectively, regarding the writ. The motion should normally be calendared for hearing concurrently with the hearing on the Writ. (Effective July 1, 2011, New)

2.11.5 Briefing Schedule and Length of Memoranda

A. Parties requesting or applying for a hearing in a case brought under the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.) shall reserve with the law and motion clerk a date and time for hearing on the request or application.

B. Unless otherwise ordered by the court, the following briefing schedule must be followed:

1. Petitioner must file with the Civil Court Clerk's Office and concurrently a chambers copy and a research copy in the designated CEQA department an opening memorandum of points and authorities in support of the petitioner within thirty (30) days from the date the administrative record is served.

2. Respondent and Real Party in Interest must file with the Civil Court Clerk's Office and concurrently a chambers copy and a research copy in the designated CEQA department opposition points and authorities, if any, within thirty (30) days following service of petitioner's memorandum of points and authorities.

3. Petitioner has twenty (20) days from service of the opposition's points and authorities to file with the Civil Court Clerk's Office and concurrently a chambers copy and a research copy in the designated CEQA department a reply memorandum of points and authorities.

4. Service of the briefs shall conform to the Code of Civil Procedure, Part 2, Title 14, Chapter 5, § 1010 et seq.

FRESNO COUNTY SUPERIOR COURT

5. California Rule of Court 3.1113 applies to the page limit in CEQA actions. Should the parties desire to submit longer memoranda, they must first file an application with the court stating good cause for exceeding that limit. If the pages exceed that in Rule 3.1113 without the court's prior approval, any pages in excess of the statutory limit will not be considered. (Effective July 1, 2011, New)

2.11.6 Settlement Meeting

The initial notice must provide that, if the parties agree, the first settlement meeting will be continued so as to take place no later than thirty-five (35) days after the administrative record is served. (Effective July 1, 2011, New)

2.11.7 Statement of Issues

The statement of issues must identify those portions of the administrative record that are directly related to the contentions and issues remaining in controversy. (Effective July 1, 2011, New)

2.11.8 Trial Notebook

Petitioner must prepare a trial notebook that must be filed with the designated CEQA department fourteen (14) days after lodging the Administrative Record. The trial notebook must consist of the petition, all answers, the briefs, any motions set to be heard at trial, the statement of issues, and any other documents agreed upon by the parties.

The trial notebook must contain a table of contents, tabbed sections consistent with those outlined above and an index of the documents in the notebook referencing page numbers. The notebook's pages should be sequentially numbered in the lower right-hand corner of each page and be bound in a "D-ring" binder no more than three (3) inches thick. Should documents dictate, further notebooks with the same requirements above should be used.

A court copy and a research copy of the above must be provided simultaneously. (Effective July 1, 2011, New)

(Rule 2.11, New effective July 1, 2011)

FRESNO COUNTY SUPERIOR COURT

the defendant's first court appearance. (Rule 3.2.1 renumbered effective January 1, 2006; adopted as Rule 15.1 effective July 1, 2000)

3.2.2 Case Assignment

Upon the filing of a misdemeanor action the case is assigned to a specific department. The judge normally assigned to that department is the judge that will preside over that case and is expected to preside over all remaining aspects of the case, including motions and trial. This assignment is an assignment for all purposes. (Effective January 1, 2010, New)

3.2.3 Continuances

All motions for a continuance of a trial shall be made in the assigned trial department. (Effective January 1, 2010; Rule 3.2.2 (now 3.2.3) renumbered effective January 1, 2006; adopted as Rule 15.2 effective July 1, 2000)

3.2.4 Misdemeanor Pretrial Hearing

A. **Pretrial Hearing.** At such time as designated by the court, a pretrial hearing (formerly jury motion) will be held. Unless otherwise ordered by the court, the defendant shall personally appear at the hearing, unless appearing by counsel.

B. **Duties at Pretrial Hearing.** All motions for continuance, waiver of jury, change of plea or other procedural matters shall be presented at the hearing. If the case is not settled at the hearing, the court may order the defendant to appear at the trial readiness hearing prior to the trial date. On the date set for trial there shall be no continuances or other delay of the trial, except on a showing of good cause based on facts not known by the moving party at the time of the pretrial hearing. (Effective January 1, 2010; Rule 3.2.3 (now 3.2.4) renumbered effective January 1, 2006; adopted as Rule 15.3 effective July 1, 2000)

3.2.5 Misdemeanor Trial Calendar

Misdemeanor trials shall be called at 1:30 p.m. on Wednesday. Trial counsel shall appear unless excused by the Court and shall be ready to proceed at the scheduled time. (Effective January 1, 2010; Rule 3.2.4 (now 3.2.4) renumbered effective January 1, 2006; adopted as Rule 15.4 effective July 1, 2000)

(Rule 3.2 renumbered effective January 1, 2006; adopted as Rule 15 effective July 1, 1992)

RULE 3.3 MOTIONS AND HEARINGS IN MISDEMEANOR CASES

3.3.1 Assignment of Motions

All motions or other matters not connected directly with trial, including, but not limited to motions to suppress, to amend the accusatory pleading, for discovery, dismissal, sanctions, interpreters, or substitution of counsel shall be made in the assigned department. (Rule 3.3.1 renumbered effective January 1, 2006; adopted as Rule 16.1 effective July 1, 2000)

FRESNO COUNTY SUPERIOR COURT

3.3.2 Filing of Motions

A. Absent an order shortening time, or provided by statute, motions in misdemeanor cases shall be filed in writing no later than ten (10) court days before the hearing.

B. Motions shall contain a notice of motion, the motion itself, a declaration or affidavit in support thereof and a memorandum of points and authorities. Proof of service shall be filed no later than five (5) court days prior to the date of the hearing.

C. All opposition papers shall be filed no later than five (5) court days prior to the hearing, with proof of service on all parties. All reply papers shall be filed no later than two (2) court days prior to the hearing, with proof of service on all parties.

D. Each paragraph of any declaration shall be numbered sequentially. The original and all copies of exhibits and attachments shall be tabbed and shall be referred to in the pleadings or papers by tab identification. Each exhibit must be separated by a hard 8 ½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. (Effective January 1, 2012; Rule 3.3.2 renumbered effective January 1, 2006; adopted as Rule 16.2 effective July 1, 2000)

3.3.3 Motions to Suppress Evidence

A. Motions to suppress evidence and all responses shall comply with Penal Code § 1538.5 and controlling case law. (E.g., for searches allegedly conducted without a warrant, see *People v. Williams* (1999) 20 Cal.4th 119 and its progeny.) If any factual assertions are based on cited documentation (such as a police report) and this documentation has not previously been filed with the court, the party making those assertions shall attach a copy of the cited document.

B. Each party is responsible for insuring that its witnesses are present for the hearing. (Rule 3.3.3 renumbered effective January 1, 2006; adopted as Rule 16.3 effective July 1, 2004)

3.3.4 Renewal of Motions

Motions decided prior to trial shall not be renewed unless the motion could not, with due diligence, have been made earlier. Any renewed motion shall be based upon grounds of new evidence which could not, with due diligence, have been discovered earlier, or if the original motion as denied without prejudice and leave to renew has been granted by the court. (Rule 3.3.4 renumbered effective January 1, 2006; adopted as Rule 16.4 July 1, 2000)

(Rule 3.3 renumbered effective January 1, 2006; adopted as Rule 16 effective July 1, 1992)

FRESNO COUNTY SUPERIOR COURT

RULE 3.4 FELONY CASE RULES

3.4.1 Felony Filings

The court shall endeavor to dispose of felony filings (by plea, finding of probable cause, or dismissal) excluding murder cases in which the prosecution seeks the death penalty as follows: 90% within thirty (30) days after the defendant's first court appearance, 98% within forty-five (45) days after the defendant's first court appearance, and 100% within ninety (90) days after the defendant's first court appearance. (Rule 3.4.1 renumbered effective January 1, 2006; adopted as Rule 17.1 effective July 1, 2000)

3.4.2 Designated Department

Unless otherwise assigned by the Presiding Judge, all proceedings in each felony case, from arraignment through settlement conference shall be heard in one of the felony departments. For each case, the appropriate department shall be known as the "Designated Department." Felony cases shall be assigned to the Designated Department alphabetically by last name of defendant. Multiple defendant cases shall be assigned by last name of the first named defendant. Felony cases from Divisions other than the Central Division shall have the preliminary hearings in those Divisions, but shall be assigned for arraignment on the information, and all subsequent hearings, alphabetically to the Designated Department. (Effective July 1, 2011; adopted as Rule 3.4.2 effective July 1, 2007)

3.4.3 Schedule of Hearings

Hearings shall be set in the Designated Departments according to a schedule available from the Clerk's Office, or by order of the court if not specifically noted. (Effective July 1, 2007, New)

3.4.4 Certification

A court which has suspended criminal proceedings pursuant to Penal Code § 1368 shall appoint a psychiatrist or licensed psychologist or two such professions in accordance with Penal Code § 1369(a) and refer the matter to the Designated Department. (Effective July 1, 2007; Rule 3.4.2 (now 3.4.4) renumbered effective January 1, 2006; adopted as Rule 17.2 effective July 1, 2000)

3.4.5 Preliminary Examinations

Except as provided in Rule 3.4.2A, preliminary examinations shall be calendared in the Designated Department and motions for continuance of a preliminary examination shall be made in the Designated Department. (Effective July 1, 2007; Rule 3.4.3 (now 3.4.5) renumbered effective January 1, 2006; adopted as Rule 17.3 effective July 1, 2000)

3.4.6 Trial Setting

A. At the time of the arraignment and plea, the court will set a date for trial within the statutory period. This is the only notice of the trial date that will be given counsel and the defendant.

FRESNO COUNTY SUPERIOR COURT

B. Reciprocal informal discovery, pursuant to Penal Code § 1054, will be ordered at the time of the arraignment. Any additional discovery requests must be made in a duly filed and noticed written motion, complying with all statutory requirements applying to such motions and Rule 3.5.1. (Effective July 1, 2007; Rule 3.4.5 renumbered effective January 1, 2006; adopted as Rule 17.5 effective July 1, 2000)

3.4.7 Settlement Conference

A. Trial Confirmations shall be renamed as Settlement Conferences. All felony Settlement Conferences will be set in the Designated Department, on Thursdays. The initial Settlement Conference will be set up two (2) weeks before the date set for trial, or on such other date as set by the Designated Department.

B. Trial attorneys who will try the case shall personally appear at the Settlement Conference. In the event a trial attorney has a conflict preventing that attorney's presence, that attorney shall make arrangements to have another attorney present who is familiar with the case. The appearing defense attorney shall have previously conferred with the client. (Effective July 1, 2007, New)

(Rule 3.4 renumbered effective January 1, 2006; adopted as Rule 17 effective July 1, 1992)

RULE 3.5 MOTIONS AND HEARINGS IN FELONY CASES

3.5.1 Motions in General

A. Except for motions to set aside the indictment or information pursuant to Penal Code § 995 and special hearings on motions to suppress under Penal Code § 1538.5, subdivision (i), where a motion to suppress was made at the preliminary hearing, all motions or other matters not connected directly with trial, including, but not limited to, motions to suppress, to amend the accusatory pleading, for discovery, dismissal, sanctions, interpreters, or substitution of counsel shall be made in the Designated Department. Dates and times for hearings shall be cleared with the individual Designated Department, and a cover sheet indicating the pre-approved date shall be attached to the face of the motion.

B. Motions to set aside the indictment or information pursuant to Penal Code § 995, and special hearings on motions to suppress under Penal Code § 1538.5, subdivision (i), where a motion to suppress was made at the preliminary hearing, shall be set in the department of the supervising judge of the Criminal Division at the time designated by that judge for motions. No pre-approval of the date is required. In the event the supervising judge of the Criminal Division acted as the magistrate at the preliminary hearing, the motion to set aside the information, or for renewal of the suppression motion made at the preliminary hearing, shall be set in the Designated Department pursuant to the procedure for other motions set forth in rule 3.5.1A and D.

C. Except as otherwise authorized by the court or required by statute, all motions and accompanying papers must be filed with the Clerk.

FRESNO COUNTY SUPERIOR COURT

D. All motions shall contain a notice of motion, the motion itself, a declaration or affidavit in support thereof, a memorandum of points and authorities, and the face sheet indicating approval by the Designated Department of the dates as required by rule 3.5.1A. All motions shall contain, in the area below the Motion Title of the first page of the filing party's motion, the hearing date, time, and department number, and the filing party's estimate of the overall time required for the hearing of the matter.

A request for a transportation order should be included if a defendant or necessary witness is in custody. If the court has not previously ordered the defendant to be present at the motion hearing and the defendant is not in custody, counsel for the defendant shall give written notice of the hearing date to the defendant and file proof of service of same at the time the motion is filed. Failure to request a transportation order when one is required or to give such notice to a non-custody defendant may result in the motion being taken off calendar.

E. Motions to suppress that are to be heard at the preliminary hearing must be personally served and filed at least five (5) court days before the preliminary hearing. Any written response by the People to the motion shall be filed with the Court and personally served on the self-represented defendant or the attorney of record at least two (2) court days prior to the hearing.

F. All other motions and accompanying papers shall be filed not less than ten (10) court days prior to the hearing, unless otherwise provided pursuant to an order shortening time or a statute. Proof of service shall be filed no later than five (5) court days prior to the date of the hearing.

G. All opposition papers shall be filed no later than five (5) court days prior to the hearing, with proof of service on all parties. All reply papers shall be filed no later than two (2) court days prior to the hearing, with proof of service on all parties.

H. Any papers filed with the Clerk in connection with the motion or response thereto shall be accompanied by two complete copies in addition to the original.

I. Continuances of hearings on motions shall not be granted except for good cause shown and upon the filing of a written notice of intention to move for such continuance with the Clerk, together with proof of service on all other parties two (2) court days prior to the hearing.

J. Motions and accompanying papers pursuant to Penal Code § 995 shall include the following:

1. A brief statement in summary form of the facts as set forth in the preliminary examination transcript;

2. A statement of the issues, specifically identifying why the information or indictment should be set aside;

FRESNO COUNTY SUPERIOR COURT

3. Where defendant intends to rely upon some testimony in the transcript, the moving papers shall contain references to the testimony, identified by page and line number of the transcript; and,

4. A statement of the authorities upon which defendant relies with explanation as to why they are applicable. Mere citation of sections of the California Penal Code and the U.S. Constitution will not be sufficient.

K. Each paragraph of any declaration shall be numbered sequentially. The original and all copies of exhibits and attachments shall be tabbed and shall be referred to in the pleadings or papers by tab identification. Each exhibit must be separated by a hard 8 ½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. (Effective January 1, 2012; Rule 3.5.1 renumbered effective January 1, 2006; adopted as Rule 18.1 effective July 1, 2004)

3.5.2 Motions to Suppress Evidence

A. In addition to the requirements of Rule 3.5.1, motions to suppress evidence and all responses shall comply with Penal Code § 1538.5 and controlling case law. (See, e.g., *People v. Williams* (1999) 20 Cal.4th 119 and its progeny when a warrantless search is at issue.)

B. Pursuant to Penal Code § 1538.5(b), hearings to challenge searches, based upon a warrant, should first be heard by the issuing magistrate, if available. Defendants seeking to challenge such a warrant shall comply with the procedure in Local Rule 3.5.1A, in the calendaring and filing of said motion with the issuing magistrate as the “Designated Department.”

In cases where the motion is brought to coincide with the preliminary hearing the hearing on the motion shall instead be heard by the magistrate assigned to conduct the preliminary hearing. (Pen. Code § 1538.5 subd. (f).)

C. All motions to suppress must comply with the filing, notice, and content requirements of Local Rule 3.5.1.

1. Moving papers shall include the following:

a. If factual assertions are based on cited documentation (such as police reports) and this documentation has not previously been filed with the court, the moving party shall attach a copy of the cited document.

b. Where a motion to suppress was made at the preliminary examination, any references in the supporting papers to such testimony shall be identified as to volume number, if more than one volume, and page and line number in the transcript.

FRESNO COUNTY SUPERIOR COURT

c. Where no motion to suppress was made at the preliminary examination and if the moving party requests testimony be received by the court at the hearing, the first page of the notice of motion, or motions, shall so indicate. The failure to so indicate shall be construed by the court as a request by the moving party to submit the matter on the statement or statements of fact and the argument of counsel.

d. Where a motion to suppress was made at the preliminary examination and if the moving party requests additional testimony be received by the court at such hearing, the first page of the notice of motion, or motions, shall so indicate. The failure to so indicate shall be construed by the court as a result on the part of the moving party that the matter be submitted on the transcript(s) of prior proceedings and the argument of counsel.

2. Responding papers shall include the following:

a. If factual assertions are based on cited documentation and this documentation has not yet been filed with the court, the responding party shall attach a copy of the cited document.

b. If the responding party intends to present testimony at the hearing, the first page of the response shall so indicate. Failure to so indicate may be construed by the court as a waiver of any right to call or recall witnesses.

c. Where no motion to suppress was made at the preliminary hearing and if the responding party requests testimony be received by the court at the hearing, the first page of the notice of motion or motions shall so indicate. The failure to so indicate shall be construed by the court as a request by the responding party to submit the matter on the statement or statements of fact and the argument of counsel.

D. Each party is responsible for insuring that its witnesses are present for the hearing.

E. Motions for Traverse of Search Warrant:

1. In accordance with *Franks v. Delaware* (1978) 438 U.S. 154, 90 S.Ct. 2674, as explained in *People v. Wilson* (1986) 182 Cal.App.3d 742, 227 Cal.Rptr. 528, the moving party must do the following:

a. Make a Penal Code § 1538.5 motion.

b. Establish standing to contest the search.

FRESNO COUNTY SUPERIOR COURT

c. Point to specific portions of the affidavit which contain false information, or demonstrate with specificity what information it is claimed was omitted.

d. Allege that the misstatements or omissions were made by the officer/affiant with the intent to deceive, or were made recklessly (i.e., with utter disregard for the truth). Allegations of negligence, or allegations failing to refer to the state of mind of the affiant, are insufficient.

e. Demonstrate that the alleged misstatements or omissions were material. Materiality in this context means that the affidavit with the objectionable language taken out or omissions added would be lacking sufficient probable cause.

f. Submit affidavits or other competent evidence demonstrating the probable truth of the defense allegations, or satisfactorily explain the absence of such affidavits.

F. If any motion involves a warrant, the moving papers shall include a copy of the warrant and its affidavit.

G. Failure to comply with the above-stated rules may result in appropriate sanctions. In the case of the moving party, this may include a summary denial of the motion. (Effective July 1, 2008; Rule 3.5.2 renumbered effective January 1, 2006; adopted as Rule 18.2 effective July 1, 2004)

(Rule 3.5 renumbered effective January 1, 2006; adopted as Rule 18 effective July 1, 1992)

RULE 3.6 TRAFFIC INFRACTION CASES

3.6.1 Trial of Traffic Infractions

At the discretion of the court, the court may conduct a trial of the defendant charged with an infraction which is a violation of the Vehicle Code or of a local ordinance adopted pursuant to the Vehicle Code in the following manner, as per Vehicle Code § 40901:

A. If the defendant waives his or her rights to confront and cross-examine witnesses, to subpoena witnesses on defendant's behalf, and to hire counsel at defendant's own expense, the trial may proceed at the time of arraignment before the judge conducting the arraignment. Prior to entry of a waiver of these constitutional rights, the court shall inform the defendant in writing of the nature of the proceedings and of these rights, and ascertain that the defendant knowingly and voluntarily waives these rights before proceeding.

B. If the non-English speaking population of Fresno County which speaks any one language exceeds 5% of the total population of the county, a written

FRESNO COUNTY SUPERIOR COURT

explanation of the proceedings and the rights of the defendant referred to in subsection (A) will be available in that language.

C. The court may accept testimony or other relevant evidence introduced in the form of a notice to appear issued pursuant to Vehicle Code § 40500 or any business record or receipt. (Rule 3.6.1 renumbered effective January 1, 2006; adopted as Rule 19.1 effective January 1, 2002)

3.6.2 Trial by Declaration

Pursuant to Vehicle Code § 40902, a defendant charged with Vehicle Code infractions or violations of local ordinances adopted pursuant to the Vehicle Code may waive his or her right to personally appear for trial, and may request trial by written declaration without a personal appearance. Trial by declaration is available to any defendant who wishes to contest the citation and who timely requests trial by declaration. Trial by declaration shall be requested and conducted in accordance with Rule 4.2.10 of the California Rules of Court. Trial by declaration is not available if defendant has been notified that a personal appearance is mandatory. A defendant electing this procedure shall notify the Clerk of his or her current address and of any changes thereof. (Effective July 1, 2007; Rule 3.6.2 renumbered effective January 1, 2006; adopted as Rule 19.2 effective January 1, 2002)

3.6.3 Traffic Infraction Appeals

A party may appeal an unfavorable decision made in the trial court to the Appellate Division of the Superior Court pursuant to Rules 8.800 through 8.821 and 8.60 through 8.880 of the California Rules of Court. The Notice of Appeal (form TR1-55) must be filed with the Clerk of the trial court within thirty (30) CALENDAR DAYS after the rendition of judgment. No extension of time is allowed.

The appeal must be directed toward errors of law only. An appeal is not a retrial, and introduction of new evidence will not be permitted. The forms and instructions on appeal procedures are available in all traffic court locations in Fresno County. (Effective January 1, 2009; Rule 3.6.3 renumbered effective January 1, 2006; adopted as Rule 19.3 effective January 1, 2002)

(Rule 3.6 renumbered effective January 1, 2006; adopted as Rule 19 effective July 1, 1992)

(Chapter 3 amended effective January 1, 2006; adopted as III effective July 1, 1992)

FRESNO COUNTY SUPERIOR COURT

THIS PAGE INTENTIONALLY LEFT BLANK.

FRESNO COUNTY SUPERIOR COURT

CHAPTER 7. PROBATE RULES

RULE 7.1 PLEADINGS

7.1.1 Form of Documents Presented for Filing in Probate Matters

A. When printed forms are reproduced on the front and back of a single sheet, the back sheet shall be inverted (tumbled) so that it can be read when affixed at the top in a file folder.

B. All persons filing as self-represented shall file with the court a separate verified declaration regarding his or her residence address, if the residence is not the address of record in the proceeding.

C. When a petition or other request for relief is presented to the court, the Probate Code section that allows the requested relief must appear below the title of the pleading.

D. If a beneficiary, heir, child, spouse, or registered domestic partner in any action before the Probate Court is deceased, that person's date of death shall be included in the petition.

E. When any document is filed for which a hearing is requested, an extra copy of the first page of the pleading shall be provided to the Clerk.

F. A proposed Order shall be submitted with all pleadings that request relief. If the proposed Order is not received in the Probate Filing Clerk's Office ten (10) days before the scheduled hearing, a continuance may be required.

G. All documents relating to a matter set for hearing shall have the hearing date, time and department set forth on the face of the document.

H. All documents containing attachments, schedules or exhibits shall be indexed and tabbed at the bottom. Each page shall have page numbers to facilitate review by the Probate Examiner's Office and the court. (Rule 7.1.1 renumbered effective January 1, 2006; adopted as Rule 70.1 effective July 1, 2004)

7.1.2 Filing Fees for Trust Matters

All initial proceedings for court supervision of trusts (including but not limited to testamentary trusts funded by a probate) and Petitions to Establish Special Needs Trusts are new actions, and require assignment of a new case number and payment of a current filing fee. (Rule 7.1.2 renumbered effective January 1, 2006; adopted as Rule 70.2 effective January 1, 2004)

(Rule 7.1 renumbered effective January 1, 2006; adopted as Rule 70 effective July 1, 1992)

FRESNO COUNTY SUPERIOR COURT

RULE 7.2 PROBATE APPEARANCES

7.2.1 Appearance Requirements

Court appearances are required at all hearings unless the matter has been recommended for approval (see Rule 7.3). When an appearance is required, local attorneys or unrepresented parties are expected to appear in person or by telephone, pursuant to California Rule of Court 3.670. (Effective July 1, 2008; Rule 7.2.1 renumbered effective January 1, 2006; adopted as Rule 71.1 effective January 1, 2004)

7.2.2 Telephonic Appearances

When telephone appearances are allowed, attorneys or parties may appear by "Court Call," by making prior arrangements with the private company that administers the program. Court Call may be arranged by calling (888) 882-6878, or the telephone number of any other vendor as approved by the Court. (Effective July 1, 2008; Rule 7.2.2 renumbered effective January 1, 2006; adopted as Rule 71.2 effective January 1, 2004)

(Rule 7.2 renumbered effective January 1, 2006; adopted as Rule 71 effective July 1, 1992)

RULE 7.3 PRE-APPROVED MATTERS/PROBATE EXAMINERS

A. All matters set for hearing are reviewed in advance by Probate Examiners. If the matter is submitted properly, if all procedural requirements have been satisfied, and if the matter does not require discretionary consideration by the Probate Judge, the matter will be pre-approved, and a court appearance will be unnecessary.

B. The telephone "Hot-Line" is recorded daily at 12 Noon, and contains a list of pre-approved and continued cases on the next day's calendar. The telephone number is (559) 457-1888 (option 1).

C. Pre-approved matters are called by the court at the time set for hearing. If there are no objections, and if the Probate Judge approves, the Order will be signed at that time. If someone appears at the hearing to object, or if the Probate Judge does not approve the petition, a new hearing date will be set and a copy of the minute order will be mailed to the moving party or attorney.

D. A copy of the Probate Examiner Notes on all non-confidential matters is available upon request and also available on www.fresnosuperiorcourt.org.

E. If a matter is not pre-approved due to procedural irregularities, parties may submit to the Probate Filing Clerk additional documents to cure the irregularities or omissions, up to 24 hours before the hearing. Any additional documents received less than 24 hours before the hearing may not be considered by the court, and the matter may need to be continued. (Effective January 1, 2012; Rule 7.3 renumbered effective January 1, 2006; adopted as Rule 72 effective January 1, 2004)

FRESNO COUNTY SUPERIOR COURT

7.6.2 Pre-Approved Orders

Orders on uncontested matters may be approved by the court at the time noticed for hearing. A copy of the signed order will be immediately available to appearing counsel. Unrepresented parties may obtain a copy of the order at the Probate Filing Clerk's Office after 1:00 p.m. on the day of the hearing. (Rule 7.6.2 renumbered effective January 1, 2006; adopted as Rule 75.2 effective January 1, 2004)

7.6.3 Orders Correcting Clerical Errors

A. If, through inadvertence, the signed order is incorrect, and such inadvertence is brought to the attention of the court by written ex parte petition, the court will sign a new, correct order that relates back to the date of the original order (nunc pro tunc).

B. If the nunc pro tunc order does not restate all of the terms of the original order, it shall be substantially in the following form: "Upon consideration of the petition of (name of declarant) to correct a clerical error, the (title and date of mistaken order) is corrected by striking the following: (incorrect sentence or paragraph) and by substituting the following: (correct sentence or paragraph.)"

C. A complete sentence or paragraph shall be stricken, even if it is intended to correct only one word or a single figure. Reference shall be made to page and line numbers of the order being corrected. (Rule 7.6.3 renumbered effective January 1, 2006; adopted as Rule 75.3 effective January 1, 2004)

(Rule 7.6 renumbered effective January 1, 2006; adopted as Rule 75 effective January 1, 2004)

RULE 7.7 EX PARTE PROCEEDINGS

A. All ex parte petitions requesting that notice be dispensed with must be presented to the Probate Examiner's Office for review. The court may grant or deny an ex parte request, or may set the matter for hearing and require notice to appropriate parties.

B. No testimony is taken in connection with ex parte applications in the Probate Department, so the application must contain facts sufficient to justify the relief requested. The facts stated in each declaration shall be set forth with particularity. Each declaration shall show affirmatively that the declarant can testify competently to the facts stated therein. The declarant may be any person who has knowledge of the facts. The application and declarations must be verified.

C. All ex parte applications shall be accompanied by a separate order complete it itself. It is not sufficient for such an order to state that the application has been granted, or that the sale of property as set forth in the application has been approved.

D. Requests to dispense with accountings will not be considered ex parte.

FRESNO COUNTY SUPERIOR COURT

E. Petitions for Final Distribution on Waiver of Account or Accountings on Waiver of Notice may not be submitted ex-parte, but shall be placed on the court's regular calendar. (Effective January 1, 2008; Rule 7.7 renumbered effective January 1, 2006; adopted as Rule 76 effective January 1, 2004)

RULE 7.8 BLOCKED ACCOUNTS

7.8.1 General Provisions

A. **Notice and Hearing.** A petition seeking to deposit funds or securities into a blocked account in a financial institution or trust company may be granted by the court ex parte.

B. **Title to Account.** The order as well as the title to the blocked account shall show the name of the minor, conservatee, or estate and shall state that the account is "blocked" and that no withdrawals of principal or interest shall be made without the prior written order of the court.

C. **Account Requirements.** All cash deposits into blocked accounts shall be into federally insured, interest bearing accounts.

D. **Maximum in Blocked Accounts.** In no event shall assets exceeding the maximum insured amount be held in any one federally insured depository. If it becomes necessary to transfer funds to an additional federally insured depository to comply with this rule, a request to transfer such funds may be submitted to the court on ex parte application, and the transfer shall be by an interbank or other direct transfer transaction unless otherwise approved or ordered by the court.

E. **Separate Petitions and Blocked Accounts for Each Minor.** A separate petition shall be filed for each minor whose funds are to be deposited into a blocked account. A separate blocked account shall be established for the funds of each minor.

F. **Withdrawals.** Withdrawals from a blocked account may be requested by ex parte application using the appropriate Judicial Council form. In all cases, sufficient documentation to support the requested withdrawal must be submitted with the application, including copies of bills, statements, or letters related to the request.

G. **Notice.** The court in its discretion may require a noticed hearing, even if the request to withdraw funds is submitted ex parte.

H. **Direct Payment.** If the withdrawal is granted, the order shall provide that payment will be made directly to the vendor or service provider and not to the applicant, unless the withdrawal is for reimbursement of an expense already paid by the applicant.

I. **Court Policy.** Absent a showing of good cause, it is the policy of the court to block all funds in Guardianship Estates. (Effective January 1, 2012; Rule 7.8.1 renumbered effective January 1, 2006; adopted as Rule 77.1 effective January 1, 2004)

FRESNO COUNTY SUPERIOR COURT

7.8.2 Accounting Requirements for Blocked Accounts

A. If a guardianship of the estate is established and the court orders that all assets are to be deposited into a blocked account, the guardian shall file an inventory and appraisal within ninety (90) days of appointment and thereafter file a first account one (1) year after date of appointment. The petition on the first account may include a request that the court dispense with further accountings until the guardianship is terminated.

B. If the guardian of the estate requests authority to deposit the minor's funds into a blocked brokerage account to allow greater flexibility in investments, the court will not dispense with accountings but will continue to require annual and biennial accountings even though all assets are blocked. (Rule 7.8.2 renumbered effective January 1, 2006; adopted as Rule 77.2 effective January 1, 2004)

7.8.3 Withdrawals from Minor's Blocked Account During Minority

A. With the exception of withdrawals to pay taxes on a minor's funds, requests to withdraw funds will ordinarily be denied if either or both parents are living and financially able to pay the requested expenditure. An application to withdraw funds to pay income taxes on the minor's funds shall include a breakdown of state and federal taxes due and any costs of preparation. An application to withdraw funds for purposes other than payment of taxes shall be accompanied by a financial declaration by the parent or parents describing their income and expenses and, if applicable, other circumstances justifying the use of the minor's assets. A statement regarding the minor's employment and income, if any, shall also be attached. If the request is for multiple items, each item must be listed separately, with its cost.

B. If a withdrawal is requested for the purchase of a car, a copy of the proposed purchase/sale agreement shall be attached to the application showing the type of car, year, purchase price, and whether payment will be made in full or in specified installments. A binding agreement shall not be entered into before obtaining a court order. A casualty insurance quote shall be attached to the application showing public liability coverage at current state minimum limits per person and per accident for automobile insurance or policy limits equal for the funds which will remain on deposit after the purchase, whichever is greater. The application shall contain an explanation of who will pay for the insurance. A copy of the minor's current report card; a statement as to who will pay for the automobile's maintenance; and a statement of the current availability of public and alternate transportation shall also be submitted.

C. If the request for withdrawal pertains to medical or dental care, including orthodontia, a statement from the doctor, dentist or orthodontist regarding the need for the treatment to be performed and the cost of the treatment shall be submitted, together with a declaration by the applicant explaining why the expense is not covered by insurance.

FRESNO COUNTY SUPERIOR COURT

D. Requests to pay for educational or recreational programs must describe the program and include a statement as to the necessity or appropriateness of the program for the minor. (Effective January 1, 2012; Rule 7.8.3 renumbered effective January 1, 2006; adopted as Rule 77.3 effective January 1, 2004)

(Rule 7.8 renumbered effective January 1, 2006; adopted as Rule 77 effective January 1, 2004)

RULE 7.9 PUBLICATION

A. If the decedent resided or owned property within the city limits of the following cities, publication shall be made as follows:

If the residence or property owned was in:

Publish in

Fowler
Fresno

Fowler Ensign
Fresno Bee, or
Fresno Business Journal
Kerman News
Kingsburg Recorder
Firebaugh Mendota Journal,
or Mendota Times

Kerman
Kingsburg
Mendota

Mountain Press
Reedley Exponent
Sanger Herald
Westside Advance
Selma Enterprise

Prather
Reedley
Sanger
San Joaquin
Selma

B. If the decedent lived outside the city limits of the cities listed above, or anywhere else within the County of Fresno, publication shall be in the Fresno Bee or the Fresno Business Journal. This includes but is not limited to the following areas: Auberry, Big Creek, Biola, Cantua Creek, Caruthers, Centerville, Clovis, Coalinga, Del Ray, Dunlap, Friant, Firebaugh, Five Points, Huron, Kings Canyon, Laton, Miramonte, Orange Cove, Parlier, Piedra, Pinedale, Raisin City, Shaver Lake, Squaw Valley, Tollhouse, or Tranquility. (Effective January 1, 2009; Rule 7.9 renumbered effective January 1, 2006; adopted as Rule 78 effective January 1, 2004)

RULE 7.10 LETTERS FOR MULTIPLE REPRESENTATIVES

When more than one person is appointed as guardian, conservator, or personal representative, the names and signatures of all appointed persons shall appear on each copy of the Letters to be issued by the Clerk. (Rule 7.10 renumbered effective January 1, 2006; adopted as Rule 79 effective January 1, 2004)

7.10.1 Duties and Liabilities

The birth date and driver's license number, if any, of a personal representative (other than public entities or trust companies) shall be provided in the receipt of acknowledgement of duties and liabilities as required by Probate Code section 8404.

FRESNO COUNTY SUPERIOR COURT

will usually be waived if the fee for filing the initial petition was waived. Petitioners in guardianship cases who do not qualify for waiver of investigation fees may request permission from the managing investigator to make monthly payments due to hardship. Bills will be sent to conservators and guardians or parents, and copies will be sent to their attorneys.

Upon receipt of the bill, payment is required within thirty days to:

Fresno County Superior Court
Attention: Probate
1130 O Street, Room 300
Fresno, CA 93721

(Effective July 1, 2011; Rule 7.15.1 renumbered effective January 1, 2006; adopted as Rule 84.1 effective January 1, 2004)

7.15.2 Independent Powers

It is the policy of the court to grant a guardian or conservator only those independent powers necessary in each case to administer the estate. A request for all powers described in Probate Code § 2591 will not be granted by the court. Each independent power requested must be justified by, and narrowly tailored to the specific circumstances of that case. Any powers so granted must be specified in the order and in the Letters of Guardianship or Conservatorship. (Rule 7.15.2 renumbered effective January 1, 2006; adopted as Rule 84.2 effective January 1, 2004)

7.15.3 Temporary Conservatorships and Guardianships

A. **Filing Procedure.** The original and two (2) copies of the Petition for Appointment of Temporary Guardian or Conservator shall be presented to the Clerk for filing.

B. **Hearings.** The court may require that a hearing be held on any Petition for Appointment of a Temporary Guardian or Conservator, even if submitted ex parte. In each instance, the court will advise counsel or the self-represented petitioner of the need for a hearing.

C. **Requirements.** The court will generally deny requests for ex-parte appointment of a temporary guardian unless the application establishes that a present emergency exists and that the minor is currently residing with the petitioner. If the minor is residing with a parent and the petitioner believes the child is in danger, a referral should be made to Child Protective Services. (Effective January 1, 2012; Rule 7.15.3 renumbered effective January 1, 2006; adopted as Rule 84.3 effective January 1, 2004)

7.15.4 Receipt of Public Benefits

When the only asset or income of a proposed conservatee or ward is the receipt of public assistance benefits, the court does not require appointment of a conservator

FRESNO COUNTY SUPERIOR COURT

or guardian of the estate. (Rule 7.15.4 renumbered effective January 1, 2006; adopted as Rule 84.4 effective January 1, 2004)

7.15.5 Guardianship of the Estate

Where appointment of a guardian of the estate is sought for more than one related minor, a separate case number shall be assigned for each minor. If the minors are from the same immediate family, only one filing fee shall be charged. If the petition requests appointment as guardian of the person only, a single petition shall be filed for all sibling minors. (Effective January 1, 2012; Rule 7.15.6 (now 7.15.5) renumbered effective January 1, 2006; adopted as Rule 84.6 effective January 1, 2004)

7.15.6 Guardianship Filing Requirements

A. When a Petition for Appointment of a Guardian is filed, the court will retain the original copy of all documents (except the Notice of Hearing), and will require the following additional copies:

1. Face page and two additional copies of the Petition.
2. Two additional copies of the Guardianship Questionnaire.
3. Two additional copies of the Declaration Under Uniform Child Custody and Jurisdiction Act (UCCJEA).

B. The Guardianship Questionnaire is a local form which is available at 1130 O Street, Fresno, CA, or on the court's website. (Effective January 1, 2012; Rule 7.15.7 (now 7.15.6) renumbered effective January 1, 2006; adopted as Rule 84.7 effective January 1, 2005)

7.15.7 Effect of Other Pending Proceedings Regarding the Child

A Petition for Appointment of a Guardian of a minor will not ordinarily be considered if any of the following circumstances exist:

A. A matter involving custody of a child is presently pending in the Family Law Court. In such case, a petitioner seeking custody or visitation rights will be instructed to seek joinder in the family law proceeding and request relief from that court. Under emergency conditions, a temporary guardianship may be granted, but only if the child is already in the custody of the proposed guardian.

B. The minor is subject to the jurisdiction of the Juvenile Court. (Effective January 1, 2012; Rule 7.15.8 (now 7.15.7) renumbered effective January 1, 2006; adopted as Rule 84.8 effective January 1, 2004)

7.15.8 Conservatorship Requirements

A. **Conservator Video.** Before the hearing on the appointment of a conservator, the proposed conservator shall view the videotape entitled "With Heart:

FRESNO COUNTY SUPERIOR COURT

Understanding Conservatorship." The videotape is available for viewing at the Probate Clerk's Office in Fresno, California under the supervision of a Probate Filing Clerk. A proposed conservator who wishes to view the video must present a valid form of picture identification to the Clerk. Call the Clerk at (559) 457-1888 for viewing times. The proposed conservator shall present a "Proof of Viewing Videotape" form to the court at the time of the initial hearing. A conservator who resides outside of Fresno County may make arrangements to view the videotape through the Court Investigator's Office of any county of this state.

B. **Sale of Conservatee's Residence and Exclusive Listings for Sale.** Petitions for authority to sell the conservatee's residence must be set on the regular probate calendar. Request for authorization to execute an exclusive listing agreement may be submitted ex parte.

C. **Appointment of Successor Conservator.** If the Petitioner and the proposed successor conservator are not the same person, the petition must specifically allege that the petitioner met and conferred with the person being nominated for appointment as successor conservator and that the person agrees to accept appointment as successor conservator. Notice must be mailed to the proposed successor conservator. (Effective January 1, 2012; Rule 7.15.9 (now 7.15.8) renumbered effective January 1, 2006; adopted as Rule 84.9 effective January 1, 2004)

7.15.9 **Compensation of Court-Appointed Attorney**

A. **Source of Payment.** At the time of appointment, the Order Appointing Counsel shall indicate whether the attorney is to be paid by the conservator of the estate, by the person represented, or by the County of Fresno at the court rate.

B. **Payment by Conservator of Estate or Person Represented.** If the conservatee or person represented has the ability to pay compensation and expenses of counsel, as indicated on the Order Appointing Counsel, the attorney shall file a petition for compensation, including a complete statement of the services rendered and a detailed breakdown of the hours spent, the hourly rate and the total amount requested for such services. Notice of the hearing shall be given pursuant to Probate Code § 1460.

C. **Payment by County.** If the conservatee or person represented does not have the ability to pay compensation and expenses of counsel, as indicated on the Order Appointing Counsel, the attorney shall request payment by filing the form entitled "Application and Order for Payment of Attorney's Fees" which is available from the Probate Filing Clerk. The application shall be accompanied by:

1. A complete statement of the services rendered, including the date, hours spent and narrative description of the services rendered, and

FRESNO COUNTY SUPERIOR COURT

2. A detailed breakdown of all expenses paid, if any, including photocopies of receipts.

The application may be submitted to the Probate Filing Clerk, Room 300 of the B.F. Sisk Courthouse, for delivery to the Clerk designated to review and process the application. Questions regarding content and requirements may be directed to the Clerk prior to submission of the application. The attorney may thereafter file a separate ex parte application to be submitted to the Probate Judge for discharge as attorney of record for the conservatee or person represented.

D. **Payment to Counsel for LPS Conservatee.** If private counsel is appointed to represent an LPS conservatee or proposed LPS conservatee and the person has the ability to pay compensation and expenses of counsel, as indicated on the Order Appointing Counsel, the petition for compensation shall be filed in the LPS proceeding following the guidelines set forth in subsection (B) above. If a conservator of the estate has been appointed, the petition should include the case number of the estate proceeding, if known to the court-appointed attorney. The court shall order the conservator of the estate or, if none, the person, to pay in any manner the court determines to be reasonable and compatible with the person's financial ability. (Effective January 1, 2012; Rule 7.15.10 (now 7.15.9) renumbered effective January 1, 2006; adopted as Rule 84.10 effective January 1, 2004)

(Rule 7.15 renumbered effective January 1, 2006; adopted as Rule 84 effective January 1, 2004)

RULE 7.16 ATTORNEY'S FEES AND COMMISSIONS IN GUARDIANSHIP AND CONSERVATORSHIP

A. Attorney fees and commissions in guardianship and conservatorship matters are awarded based upon what is just and reasonable. Except as set forth in Rule 7.16 (B), below, an attorney seeking compensation or reimbursement of costs shall comply with California Rules of Court, Rules 7.750 through 7.752.

B. The court will allow a flat fee for attorney services, without the need to comply with Rule 7.16 (A) above, as follows:

1. Establishment of a conservatorship or guardianship and preparation of the first account: \$2,500.00.
2. Court confirmed sale of real property: \$1,250.00.
3. Attorney-prepared income tax returns: \$600.00.
4. Each timely filed subsequent account: \$1,250.00 per year.
5. If the account is not timely filed, compliance with Rule 7.16 (A), above, is required.

FRESNO COUNTY SUPERIOR COURT

C. The court will allow a flat fee for guardians and conservators, without the need to comply with Rule 7.16 (A), above, as follows:

1. Sale of personal property: 10% of the sales price, up to a maximum fee of \$1,000.00.
2. Sale of real property: \$1,000.00 (court confirmation is not required).

D. Attorneys, guardians, and conservators may request fees in excess of the flat fees set forth in paragraphs B and C, above, but must comply with the requirements of Rule 7.16 (A), above. (Effective January 1, 2012, Rule 7.16 renumbered effective January 1, 2006; adopted as Rule 85 effective July 1, 2004)

RULE 7.17 REIMBURSEMENT OF ATTORNEY'S, CONSERVATOR'S, GUARDIAN'S OR PERSONAL REPRESENTATIVE'S COSTS ADVANCED

A. The following costs advanced may be reimbursed to the attorney, conservator, guardian or personal representative without prior court permission:

1. Fees charged by the Clerk of the Court.
2. Newspaper publication fee.
3. Surety bond premiums.
4. Probate referee fees.
5. Court investigator's fees.

B. The following expenses are considered by the court to be part of the cost of doing business, and are not reimbursable costs or fees:

1. Photocopy expense (except as set forth in C below).
2. Local telephone charges.
3. Computer research fees.
4. Secretarial services.
5. Travel to and from court.

FRESNO COUNTY SUPERIOR COURT

6. Communications with Probate Examiners.

7. Runner services.

C. Requests for reimbursement of allowable costs must be supported by itemized declarations and are subject to the court's discretion. Allowable costs include but are not limited to:

1. Postage and photocopy expense when more than ten people are entitled to notice.

2. Necessary use of alternative delivery services: i.e., UPS, Fed-Ex, wire transfer. (Effective January 1, 2008, Rule 7.17 renumbered effective January 1, 2006; adopted as Rule 86 effective January 1, 2004)

RULE 7.18 EXTRAORDINARY FEES IN DECEDENT'S ESTATES

A. The court will allow the following amounts as extraordinary fees for attorneys without further justification or declaration as would otherwise be required by California Rules of Court, Rule 7.702-7.703:

1. Court confirmed sales of real property: \$1,000.00.

2. Attorney-prepared Federal Estate Tax return: \$2,000.00.

3. Attorney-prepared Estate Income Tax return: \$500.00.

B. The court will allow the following amounts as extraordinary fees for personal representatives without further justification or declaration as would otherwise be required by California Rules of Court, Rule 7.702-7.703:

1. Sales of real property: \$1,000.00.

2. Sale of personal property: 10% of the sales price, up to a maximum fee of \$1,000.00.

3. Personal-representative prepared Federal Estate Tax return: \$2,000.00.

4. Personal-representative prepared Estate Income Tax return: \$500.00. (Effective January 1, 2008, Rule 7.18 renumbered effective January 1, 2006; adopted as Rule 87 effective January 1, 2004)

RULE 7.19 TRUSTS, SPECIAL NEEDS TRUSTS AND SUBSTITUTED JUDGMENTS

A. A copy of the proposed trust instrument shall be attached to the petition.

FRESNO COUNTY SUPERIOR COURT

B. Trusts funded by court order in Fresno County must comply with California Rules of Court 7.903 and must require court confirmation of sales of trust real property.

C. A petition to approve the establishment of a trust for a conservatee should include a recommendation for the amount of bond to be posted by the proposed trustee and for termination of the conservatorship estate. Following termination of the conservatorship of the estate, new Letters shall issue for the conservatorship of the person only. Prior to granting a petition to establish a trust, the court will require that a final accounting be filed by the conservator. Thereafter, all trust accountings shall be filed in a new Trust file, and a filing fee shall be payable upon the filing of each account.

D. Trusts created by the court shall be subject to the court's continuing jurisdiction unless otherwise specified, and shall be subject to periodic accounts as are required in guardianship and conservatorship matters.

E. When a trust is subject to continuing court supervision, no payment of fees to attorneys, trustees, or others may be made without prior court approval. (Effective January 1, 2008, Rule 7.19.1 renumbered effective January 1, 2006; adopted as Rule 88.1 effective January 1, 2004)

(Rule 7.19 renumbered effective January 1, 2005; adopted as Rule 88 effective January 1, 2004)

RULE 7.20 COURT CONFIRMED SALES OF REAL PROPERTY

Overbids. When an overbid is made in court, the bidder must submit cash, money order, or certified check at the time of the hearing in the amount of ten (10) percent of the minimum overbid. (Effective July 1, 2011, New)

(Rule 7.20, New effective July 1, 2011)

(Chapter 7 amended effective January 1, 2006; adopted as VII effective July 1, 1992)

FRESNO COUNTY SUPERIOR COURT

THIS PAGE INTENTIONALLY LEFT BLANK.

FRESNO COUNTY SUPERIOR COURT

Probate Rules

Appearances, Requirements.....	7.2.1
Appearances, Telephonic.....	7.2.2
Approved Matters.....	7.3
Attorney Fees in Guardianship and Conservatorship.....	7.16
Blocked Accounts.....	7.8
Accounting Requirements	7.8.2
Withdrawals.....	7.8.3
Costs Advanced	7.17
Conservatorship and Guardianship.....	7.15
Attorney Fees	7.16
Compensation for Court Appointed Attorneys	7.15.9
Conservatorship Requirements	7.15.8
Conservatorship Video	7.15.8A
Effect of Other Actions Involving the Child	7.15.7
Guardianship Filing Requirements	7.15.6
Guardianship of the Estate	7.15.5
Investigation Costs	7.15.1
Independent Powers.....	7.15.2
Receipt of Public Benefits.....	7.15.4
Reimbursement of Costs	7.17
Sale of Conservatee's Residence	7.15.8B
Successor Conservators	7.15.8C
Temporary Guardianship and Conservatorship.....	7.15.3
Continuances	7.4
Deceased Beneficiaries: Date of Death	7.1.1
Disclaimers and Assignments in Probate Estates	7.14
Document Preparers, Identification	4.1.8
Ex-Parte Proceedings	7.7
Extraordinary Fees in Probate Estates.....	7.18
Guardianship.....	7.15
Inventory and Appraisal	7.11
Letters for Multiple Representatives.....	7.10
Orders	
Form of Orders	7.6.1
Orders Correcting Clerical Error	7.6.3
Pre-Approved Orders	7.6.2
Petitions for Distribution	
Characterization of Property to be Distributed.....	7.12.2
Distribution of Personal Effects	7.12.3
Distribution to Intervivos Trust	7.12.5
Distribution of Real Property.....	7.12.4
Listing of Property.....	7.12.1
Pleadings, Form	7.1
Pre-Approved Matters	7.3
Publication of Notice	7.9

FRESNO COUNTY SUPERIOR COURT

Status Hearings and Status Reports	7.5
Telephone Appearances	7.2.2
Trusts	
Accounting and Trustee Fees	7.19
Filing Fees	7.1.2
Special Needs Trusts	7.19
Waiver of Accounting	7.13
Protocol for Communication Between Courts Regarding Domestic Violence	
Orders	4.1.10

R–S

Record on Appeal	4.2.3
Request for Warrants	3.1.1
Request to Set Case for Trial	2.9.4
Retention of Exhibits Prior to Final Determination of Action or Proceeding	3.1.9
Returned Checks	1.1.16
Sanctions	1.1.6, 5.1.1
Security	1.1.7
Service and Filing of Proof of Service	2.1.5, 2.9.3
Small Claims Appeals	2.10.3
Small Claims Cases	2.10
Sound and/or Video Recordings to be Offered as Evidence in Criminal	
Cases	3.1.10
Sound Recordings	4.1.2
Stipulation for Trial Setting in Lieu of Case Management Conference	2.1.8

T

Tape Recordings	4.1.2
Telephone Appearances	2.2.5, 7.2.2
Traffic Cases	3.6
Trial Court Delay Reduction	1.1.3, 2.1, 2.9
Trial Readiness Hearing	2.6

U–V

Undertaking, Unlawful Detainer	2.9.8
Unlawful Detainer Cases	2.8.6, 2.9
Verdicts and Jury Instructions	2.6.1, 4.1.1